

Rules

RULE

Board of Elementary and Secondary Education

Bulletin 111—Louisiana School, District, and State Accountability System (LAC 28:LXXXIII.Chapter 45)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended to *Bulletin 111—The Louisiana School, District, and State Accountability System* (LAC Part Number LXXXIII). Act 478 of the 1997 Regular Legislative Session called for the development of an accountability system for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The state's accountability system is an evolving system with different components. Chapter 45, Disaster Considerations for School and District Accountability, is designed to address the impact of natural disasters on schools/districts ability to meet the objectives of the accountability system.

Title 28

EDUCATION

Part LXXXIII. Bulletin 111—Louisiana School, District, and State Accountability System

Chapter 45. Disaster Considerations for School and District Accountability

§4501. Potential Impact of Disasters on Accountability

A. Special consideration shall be given to schools and districts significantly impacted by disasters when accountability decisions are made. The consideration shall include but not be limited to:

1. closure of schools and districts for extended periods of time;
2. transfer of significant numbers of students from affected schools and districts;
3. enrollment of significant numbers of displaced students into receiving schools and districts;
4. emigration of displaced students to other states;
5. multiple transfers of displaced students as they move from shelters and temporary housing to more permanent situations;
6. the transfer of displaced students as they return to their home schools and districts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1412 (August 2006).

§4503. One Year Waiver for "Severe Impact" Schools and Districts

A. Schools that meet either of two conditions associated with disasters shall be labeled "severe impact" schools and shall receive a one year waiver of accountability decisions based on the schools' school performance scores. The conditions are:

1. the school was closed, due to a disaster, for 18 or more consecutive school days during a given academic year; or

2. the school either gained or lost 25 percent or more of its testing population due to a disaster.

- a. This 25 percent gain or loss is calculated by dividing a school's prior year October 1 enrollment of students in grades 3-11 into its current year October 1 enrollment of 3-11 students exited using "disaster" codes or entered using "disaster" codes (see §4507).

- B. Schools that do not meet the severe impact criteria shall be labeled "limited impact" schools.

- C. Severe impact schools that receive the one year "disaster" waiver shall not have school performance scores, growth labels, or performance labels published for the year of the waiver. Assessment results will be provided to the districts for planning purposes.

- D. The year following the waivers, the waived schools shall be considered new schools.

- E. Districts may request to be considered "severe impact" districts and receive a one year waiver from accountability labels and decisions if:

1. they are closed for 18 consecutive school days; or
2. they gain or lose 25 percent of their testing population before Oct. 1; or
3. they have 50 percent or more of their schools granted a one year waiver due to a disaster.

- F. Districts receiving a one year waiver shall not have district performance scores, district responsibility indices, and associated labels published for the year of the waiver.

- G. Districts may elect to have severe impact schools:

1. remain fully in accountability and receive scores and labels as limited impact schools (see §4507 and §4509); or
2. receive scores and labels as limited impact schools, but schools:

- a. will not enter or advance in school improvement or academic assistance as a result of accountability labels based on data collected during the year of the disaster; but

- b. schools can exit school improvement or academic assistance as a result of accountability labels based on data collected during the year of the disaster.

- H. Districts must provide justification to the LDE and receive LDE approval if they elect to:

1. have some of their severe impact schools receive the one year waiver and subsequent new school status, while;
2. they elect for other severe impact schools to follow one of the choices in Paragraphs G.1 and 2 above.

- I. Districts may request of the LDE that limited impact schools be relabeled severe impact schools if special circumstances exist at the schools. The LDE may grant the request if adequate justification is provided by the district. Requests that attempt to circumvent accountability for schools previously identified as being in school improvement shall be denied.

- J. Districts that elect for their schools the provisions in Subsections H and/or I above, must submit in writing, by April 15 of the academic year in which the disaster occurred,

any such requests and any justification supporting the requests.

K. Louisiana Department of Education staff will, after conferring with district personnel, notify in writing by the last "business day" in May, the districts of its decisions concerning requests for the provisions in Subsections H and/or I above.

L. Districts must notify the LDE no later than the last "business day" in May of their final decisions regarding severely impacted schools and the choices in Subsection G (above).

M. Situations not considered by this policy but that substantially impact a school's accountability results may be addressed by the school district during the established appeal/waiver period following the official fall release of accountability results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1412 (August 2006).

§4505. Severe Impact Schools Following a One Year Disaster Waiver

A. Severe impact schools that fall within a K-8 configuration and that receive the one year waiver will:

1. the following year, receive only assessment indices with no published growth or performance scores or labels;
2. the second year following the waiver, receive baseline school performance scores and performance labels;
3. the third year following the waiver be fully included in accountability with growth and baseline SPSs and growth and performance labels.

B. Due to the inclusion of a graduation index in accountability, severe impact schools that fall within the 9-12 configuration and that receive the one year waiver will:

1. the following year, receive only assessment indices with no published growth or performance scores or labels;
2. the second year following the waiver, receive baseline assessment indices and performance labels assigned to those indices;
3. the third and fourth years following the waiver, be fully included in accountability with growth and baseline assessment indices and growth and performance labels assigned to those indices;
4. the fifth year following the waiver, be fully included in accountability with:
 - a. growth assessment Indices and growth labels assigned to those indices; and
 - b. a graduation index; and
 - c. a baseline school performance score comprised of assessment and graduation data;
5. the sixth year following the waiver, be fully included in accountability with growth and baseline SPSs comprised of assessment and graduation data and growth and performance labels.

C. Severe impact combination schools shall have their two components (K-8 and 9-12) re-enter accountability as described in Subsections A and B (above). The overall scores will be calculated using weighted averages of the appropriate assessment indices and/or school performance scores from the two components.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1413 (August 2006).

§4507. Identifying Displaced Students

A. Beginning in fall 2005, the Louisiana Department of Education (LDE) will provide specific entry and exit codes and detailed instruction on the use of those codes to address significant and specific disaster situations.

B. The Louisiana Department of Education must determine what specific disasters and impacted districts to which these codes will be applied and any time limitations.

C. Districts are required to use the "disaster codes" as instructed by the LDE if consideration related to accountability is to be granted the schools and districts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1413 (August 2006).

§4509. Assessment Index Calculations with Displaced Students for Limited Impact Schools

A. When student mobility occurs prior to October 1 of a given academic year as a result of a disaster, the data collected during that academic year for calculating the assessment index (for use in the Growth and Baseline SPS) shall be evaluated in two ways:

1. as described in Chapters 3 and 4;
2. as described in Chapters 3 and 4, but excluding the assessment results of any student who entered the school using a "disaster" entry code during that academic year. The assessment index calculated when excluding the displaced students is called the alternate assessment index.

B. Growth labels shall be assigned and Growth SPS reported using the higher of the two assessment indices.

C. Performance labels shall be assigned and Baseline SPS reported using the lower of the two assessment indices, except:

1. when using the higher of the two prevents a school from being labeled academically unacceptable, the higher assessment index shall be used.

D. The lower of the two assessment indices shall be used the following academic year in the Baseline SPS for reporting and assigning performance labels, except:

1. when using the higher of the two prevents a school from being labeled academically unacceptable, the higher assessment index shall be used.

E. If large numbers of displaced students impact a school's performance due to intra-district transfers, the district may appeal during the established appeal/waiver period following the official fall release of accountability results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1413 (August 2006).

§4511. Graduation Index Calculations for Limited Impact Schools

A. Displaced students entering grades 9-12 at a limited impact school using a "disaster" entry code shall not enter the graduation cohort in that academic year.

B. If such a student is included in a school's Oct. 1 count of the following academic year, the student shall enter the graduation cohort as described in Chapter 6.

C. When student mobility is a result of a disaster, students exiting grades 9-12 using a "disaster" exit code shall not be considered dropouts (refer to §611).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1413 (August 2006).

§4517. District Performance Score Calculations with Displaced Students

A. The district performance scores will be calculated using the same indices as school performance scores with the same considerations for displaced students (described in §§4507-4515).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1414 (August 2006).

§4527. Disaster Considerations for the School and District Subgroup Component

A. Schools and districts shall receive a one year exclusion from the subgroup component in accountability if they:

1. reside within the boundaries of parishes declared natural disaster areas by the President of the United States; and
2. were closed due to the declared disaster for 18 consecutive school days.

B. Any school or district with displaced students comprising 5 percent or more of its eligible subgroup component testing population on the days of testing in a given academic year, and that fails the subgroup component, shall receive a one year exclusion from accountability decisions (refer to §3103) based on the subgroup component during the academic year in which the disaster occurred.

C. Any school or district that fails the subgroup component because of the failure of any subgroup that includes displaced students shall be re-evaluated with the displaced students comprising a separate subgroup and excluded from all other subgroups.

1. If, after re-evaluation, no subgroups fail or only the displaced students subgroup fails the subgroup component, the school or district shall:

- a. submit a plan for approval to the LDE addressing the needs of displaced students; and
- b. implement the plan after receiving LDE approval.

2. The school or district shall not be labeled as failing subgroup AYP, nor enter or advance in school improvement.

3. Schools or districts that, at the beginning of the following academic year, enroll fewer than 50 percent of the students who comprised the displaced students subgroup may request a one year exclusion from the subgroup component.

4. The displaced students shall not be considered a separate subgroup the following academic year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1414 (August 2006).

Weegie Peabody
Executive Director

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RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Curriculum and Instruction
(LAC 28: CXV.2319, 2377, and 2387)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators*: §2319, High School Graduation Requirements, §2377, General Career and Technical Education, and §2387, Trade and Industrial Education. This action will up-date Career and Technical course offerings. In updating these courses offerings our Career and Technical program of studies will be more aligned with national standards.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction

§2319. High School Graduation Requirements

A. - E. ...

F. High School Area of Concentration

1. All high schools shall provide students the opportunity to complete an area of concentration with an academic focus and/or a career focus.

a. To complete an academic area of concentration, students shall meet the current course requirements for the Tuition Opportunity Program for Students (TOPS) Opportunity Award plus one additional Carnegie unit in mathematics, science, or social studies.

b. To complete a career area of concentration, students shall meet the minimum requirements for graduation including four elective primary credits in the area of concentration and two related elective credits, including one computer/technology course. The following computer/technology courses can be used to meet this requirement.

Course	Credit
Computer/Technology Literacy	1
Computer Applications or Business Computer Applications	1
Computer Architecture	1
Computer Science I, II	1 each
Computer Systems and Networking I, II	1 each
Desktop Publishing	1
Digital Graphics & Animation	1/2
Multimedia Presentations	1/2 or 1
Web Mastering or Web Design	1/2
Independent Study in Technology Applications	1
Word Processing	1
Telecommunications	1/2
Introduction to Business Computer Applications	1
Technology Education Computer Applications	1
Advanced Technical Drafting	1
Computer Electronics I, II	1 each
Database Programming with PL/SQL	1
Java Programming	1
Database Design and Programming	1/2

G - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 17:183.2, R.S. 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006).

§2377. General Career and Technical Education

A. General Career and Technical Education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
CTE Internship I	11-12	2
CTE Internship II	12	2
General Cooperative Education I	11-12	3
General Cooperative Education II	12	3
Education for Careers	9-12	1/2 -1
Teacher Cadet I	11-12	1
Teacher Cadet II	12	1
Advanced Television Broadcasting I	10-12	1-3
Advanced Television Broadcasting II	11-12	1-3
Digital Media I	10-12	1-3
Digital Media II	11-12	1-3
Oracle Internet Academy		
Database Design and Programming	11-12	1
Java Programming	11-12	1
Database Programming with PL/SQL	11-12	1/2
Finance Academy		
Economics and the World of Finance	11-12	1/2
Banking and Credit	11-12	1/2
Financial Planning	11-12	1/2
Securities	11-12	1/2
Insurance	11-12	1/2
International Finance	11-12	1/2
Introduction to Financial Services	11-12	1/2 - 1
Hospitality and Tourism Academy		
Introduction to Travel and Tourism	11-12	1/2
Travel and Tourism II	11-12	1/2
Travel Destinations I, II	11-12	1/2
Systems Applications	11-12	1/2
Economics for Travel and Tourism	11-12	1/2
Information Technology Academy		
Introduction to Information Technology	11-12	1/2
Digital Networks	11-12	1/2
Advanced Web Tools	11-12	1/2
Databases	11-12	1/2
Introduction to the Internet	11-12	1/2
Logic for Programming	11-12	1/2

B. General Cooperative Education courses shall be limited to students who meet the specific prerequisites and requirements of one of the specialized cooperative education programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1299 (June 2005), amended LR 32:1415 (August 2006).

§2387. Trade and Industrial Education

A. Trade and Industrial Education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Air Conditioning/ Refrigeration I, II	11-12	1-3
Air Conditioning/ Refrigeration III, IV	11-12	2-3
Auto Body Repair I, II	11-12	1-3

Course Title(s)	Recommended Grade Level	Units
Auto Body Repair III, IV	11-12	2-3
Automotive Technician I, II	11-12	1-3
Automotive Technician III, IV, V, VI	11-12	3
General Automotive Maintenance	11-12	1-3
G. M. Technician I, II	11-12	1-3
ABC Carpentry I, II	11-12	1-3
ABC Electrical I, II	11-12	1-3
ABC Instrumentation Control Mechanic I, II	11-12	1-3
ABC Pipe Fitter I, II	11-12	1-3
ABC Welding Technology I, II	11-12	1-3
Masonry I, II	11-12	1-3
Cabinetmaking I, II	11-12	1-3
Carpentry I, II	11-12	1-3
Carpentry III, IV	11-12	2-3
Culinary Occupations I, II	11-12	1-3
Culinary Occupations III, IV	11-12	2-3
Custom Sewing I, II	11-12	1-3
Computer Electronics I, II	11-12	1-3
Commercial Art I, II	11-12	1-3
T & I Cooperative Education (TICE) I	11-12	1-3
T & I Cooperative Education (TICE) II	12	1-3
T & I Elective I	11-12	1-3
T & I Elective II	11-12	1-3
Cosmetology I, II	11-12	1-3
Cosmetology III, IV	11-12	2-3
Diesel Mechanics I, II	11-12	1-3
Diesel Mechanics III, IV	11-12	2-3
Drafting and Design Technology I, II	11-12	1-3
Drafting and Design Technology III, IV	11-12	2-3
Basic Electricity I, II	11-12	1-3
Electronics I, II	11-12	1-3
Industrial Electronics I, II	11-12	1-3
Electrician I, II	11-12	1-3
Electrician III, IV	11-12	2-3
Graphic Arts I, II	11-12	1-3
Graphic Arts III, IV	11-12	2-3
Horticulture I, II	11-12	1-3
Industrial Engines I, II	11-12	1-3
Laboratory Technology I, II	11-12	1-3
Industrial Machine Shop I, II	11-12	1-3
Industrial Machine Shop III, IV	11-12	2-3
Marine Operations I, II	11-12	1-3
Photography I, II	11-12	1-3
Plumbing I, II	11-12	1-3
Printing I, II	11-12	1-3
Sheet Metal I, II	11-12	1-3
Outdoor Power Equipment Technician I, II	11-12	1-3
Outdoor Power Equipment Technician III, IV	11-12	2-3
Television Production I, II	11-12	1-3
Upholstery I, II	11-12	1-3
Welding I, II	11-12	1-3
Welding III, IV	11-12	2-3

B. Trade and industrial education programs may be offered in two consecutive class periods, five days per week, for 36 weeks each year for two units of credit, or may be offered with three consecutive class periods for three units of credit in the selected Trade and Industrial Education program.

C. Each LEA that operates a career/technical center or comprehensive high school may award 1 1/2 units of credit to students enrolled in a two-hour block for 36 weeks, or 2 1/2 units of credit to students enrolled in a three-hour block for 36 weeks in approved trade and industrial education programs. This scheduling allows students to be

excused from class for one hour each day for one semester to take the required course in Free Enterprise at either the tenth, eleventh, or twelfth grade level.

D. An LEA may offer a one-hour trade and industrial education program for one unit of credit at the ninth or tenth grade level as a prerequisite to enrollment in a related trade and industrial education program at the tenth, eleventh, or twelfth grade level. The course shall be in the programmatic area in which the trade and industrial education instructor is certified to teach.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005), amended LR 32:1415 (August 2006).

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RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Louisiana Educational Leaders Induction (LELI) Program (LAC 28:CXV.507)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators*, §507. Louisiana Educational Leaders Induction (LELI) Program. Existing policy contained in Section 507 of Bulletin 741 states the Louisiana Principal/Assistant Principal Induction Program guidelines. This revision to policy reflects new guidelines for the Louisiana Educational Leaders Induction Program for the induction of first- and second-year principals, first-year assistant principals, and district level leaders. This policy was updated to align it with current certification policy. The proposed changes will clarify eligibility requirements for issuance of Educational Leader certificates and will allow for more effective implementation of the new Educational Leader Certification Structure.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 5. Personnel

§507. Louisiana Educational Leaders Induction (LELI) Program

A. All newly appointed principals, assistant principals, and district level leaders with provisional principal or Educational Leader Level 1 certification shall participate in the LELI.

B. The LELI Program shall include the following.

1. Individuals appointed to a principalship, assistant principalship, or district level leadership position after October 1 shall be enrolled in the LELI at the beginning of the following year.

2. LELI program requirements shall also apply to an individual serving as Acting Principal or Acting Assistant

Principal if he/she is serving in a full-time, full-year administrative capacity.

3. A newly appointed assistant principal who successfully completes the Assistant Principal Induction Program and three years of educational leadership experience may request to have his/her provisional principal status or Educational Leader Level 1 endorsement updated to Educational Leader Level 2.

4. A newly appointed principal who successfully completes the Principal Induction Program and three years of educational leadership experience may request to have his/her provisional principal status or Educational Leader Level 1 endorsement updated to Educational Leader Level 2.

5. A newly appointed district leader who successfully completes the District-Level Educational Leader Induction Program and three years of educational leadership experience may request to have his/her provisional principal status or Educational Leader Level 1 endorsement updated to Educational Leader Level 2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3761.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1266 (June 2005), amended LR 32:1416 (August 2006).

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RULE

Board of Elementary and Secondary Education

Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators Initial Classification and Instructional Staff (LAC 28:LXXIX.109 and 303)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Nonpublic *Bulletin 741—Louisiana Handbook for Nonpublic School Administrators*, §109, Initial Classification and §303. Instructional Staff (LAC 28:LXXIX). The Rule changes affect the policies concerning school approval and qualification of personnel. The changes in the school approval policy specify the process for obtaining school approval including how long schools must be in existence before they can apply for approval. The changes in §303 are needed to provide clarity and specificity to the existing policy.

Title 28

EDUCATION

Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators Chapter 1. Operation and Administration §109. Initial Classification

A. Schools seeking initial approval must be classified as either approved or provisionally approved and must show evidence of one year of successful operation.

B. Schools seeking initial approval must report their October 1 enrollment along with an Annual School Report.

C. Upon receipt of the initial classification and BESE approval, Brumfield-Dodd approval may be requested

through the Office of Communications and Legislative Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2343 (November 2003), amended LR 31:3073 (December 2005), LR 32:1416 (August 2006).

Chapter 3. Certification of Personnel

§303. Instructional Staff

A. Each member of the instructional staff teaching secular subjects, pre-kindergarten through 12, shall meet one of the following three options:

1. hold a valid Louisiana teaching certificate for the courses he/she teaches; or

2. qualify to teach in nonpublic schools by meeting all of the following criteria:

a. have a bachelor's degree from a regionally accredited institution;

b. have a college major or the equivalent in the area of his/her teaching assignment; and

c. earn 12 semester hours of professional education courses. A beginning teacher shall have a three-year period in which to meet this 12-semester hour standard.

3. Teachers not meeting the requirements of Paragraphs 1 or 2 of this Section may obtain a Nonpublic Temporary Teaching Authorization (NTTA) issued by the DOE or a diocesan superintendent for schools within the diocesan system. The NTTA is valid for one year. To renew the NTTA, a teacher must complete six semester hours needed to complete the requirements of Paragraphs 1 or 2 of this Section.

B. A secondary teacher may teach in areas other than the major field for a period of time that is less than one-half of the school day provided that he has earned at least 12 semester hours in each such area. (Exception may be made for teachers in Trade and Industrial Education classes.) These teachers must hold a degree from a regionally accredited institution and have earned 12 semester hours of professional education courses.

C. Teachers of the pre-kindergarten class shall be certified or qualified in either elementary, kindergarten, or nursery school or have earned 12 hours in child growth and development. The 12 hours in child growth and development may be earned through the College of Education or the Department/School of Family and Consumer Sciences.

D. Teachers of the kindergarten class shall be certified or qualified in either elementary or kindergarten or have earned 12 hours in child growth and development. The 12 hours in child growth and development may be earned through the College of Education or the Department/School of Family and Consumer Sciences.

E. Staff members teaching religion at the high school level (9-12) for Carnegie units must have a minimum of a bachelor's degree. Staff members teaching religion that do not meet minimum qualifications may be retained in a school provided they were employed during the 1995-96 school year as teachers of religion.

F. Professional and/or technical personnel—e.g., C.P.A.s, doctors, college or university professors, lab technicians, lawyers, and so forth - may teach less than one-half of a school day in their area of expertise.

G. Non-degreed teachers having taught for a period of at least five years prior to September 1, 1977, may be rehired in a school provided their teaching performance was satisfactory; however, these teachers are eligible to teach only in the subject areas as listed prior to September 1, 1977. Upon retirement or replacement, these teachers must be replaced with qualified teachers as described herein.

H. Credentials for graduates of foreign universities or colleges must be submitted to the American Association of Collegiate Registrars and Admissions Officers (AACRAO), Office of International Education Services, for evaluation according to the DOE procedures. After reviewing the AACRAO Evaluation, the local administrator shall determine if the applicant is qualified to teach according to the requirements of this Section. A copy of the AACRAO evaluation shall be kept on file in the principal's office.

1. Applicants with foreign credentials seeking state certification should follow procedures as outlined by the DOE.

I. Teachers in nonpublic schools seeking state certification shall follow the approved procedure.

1. Secondary and elementary personnel may teach grades preK-12 in their qualified areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2344 (November 2003), amended LR 31:3075 (December 2005), LR 32:1417 (August 2006).

Weegie Peabody
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RULE

Board of Elementary and Secondary Education

Bulletin 1196—Louisiana Food and Nutrition Programs, Policies of Operation (LAC 28:XLIX.109, 111, 303, 313, 333, 341, 345, 349, 503, 505, 507, 509, 511, 513, 515, 517, 519, 521, 523, 1117, 1303, 1315, 1703, 1705, 1707, 2101, 2311, 2505, 2507, 2509, 2523 and 3109)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 1196—Louisiana Food and Nutrition Programs, Policies of Operation* (LAC 28:XLIX). Bulletin 1196 is the policy manual designed to provide useful guidance and information for the purpose of improving regulatory compliance and to enhance the understanding and operation of the Child Nutrition Programs in Louisiana. This bulletin was developed as a result of the necessity to incorporate all state policy changes which have already been implemented by the sponsors. These revisions update state policies.

Title 28

EDUCATION

Part XLIX. Bulletin 1196—Louisiana Food and Nutrition Programs, Policies of Operation

Chapter 1. Administration

§109. Requirements for Participation

A. - C.3. ...

4. Under the above criteria, the following types of schools of high school grades or under and institutions generally qualify.

a. Boarding or Institutional Schools

i. Boarding or institutional schools are eligible to participate if food costs for school children are satisfactorily separated from the total food cost, including adults, and if prior approval has been obtained from the state agency. Such eligible schools can claim reimbursement for only one lunch, breakfast, and/or snack per school child served on regular school days.

b. Bureau of Indian Affairs (BIA) Schools

i. Bureau of Indian Affairs schools are operated by the BIA or under a BIA contract; they are allowed to participate under the same terms as all other recognized schools.

c. Charter Schools

i. Independent public schools that provide a program of elementary or secondary education, or both, organized as nonprofit corporations and governed by their own board of directors within the framework agreed to in the charter granted by the local school board or the SBESE are allowed to participate under the same terms as all other recognized schools. These schools must be public (governmental) or private nonprofit having tax-exempt status with the Internal Revenue Service, 501(c)(3).

d. - i. ...

i. Public or nonprofit private RCCIs that have temporary clientele are eligible to participate as long as they operate on a continuous basis. Private RCCIs must be licensed by the state and have tax-exempt status with the Internal Revenue Service, 501(c)(3). RCCIs include, but are not limited to, homes for the mentally, emotionally or physically impaired; unmarried mothers and their infants; group homes; halfway houses; orphanages; temporary shelters for abused children and for runaway children; long-term care facilities for chronically ill children; and juvenile detention centers.

C.4.j. – D.2.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2101 (December 2001), amended LR 32:1417 (August 2006).

§111. Permanent Agreement between Sponsor and Louisiana State Department of Education

A. Sponsorship of a CNP is limited to the board of a public school system, the board of a charter school if public (governmental) or private nonprofit having tax-exempt status with the Internal Revenue Service, 501(c)(3), or the governing body legally responsible for the administration of a nonpublic school having tax-exempt status with the Internal Revenue Service, 501(c)(3). As sponsors, the board or governing body shall execute the required agreement with the LDOE and accept responsibility for carrying out all terms. The sponsor must also submit an application for participation annually and provide any other required information regarding school food service in the schools or other institutions under its jurisdiction.

B. - C.26.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE Promulgated by the Board of Elementary and Secondary Education, LR 27:2102 (December 2001), amended LR 29:2022 (October 2003), LR 32:1418 (August 2006).

Chapter 3. Financial Management and Accounting
§303. Basic Requirements for School Food Service Financial Accountability

A. - A.12.a. ...

13. Accountability of Assets

a. Control over and accountability for all funds, property, supplies, and other program assets shall be maintained to ensure that they are safeguarded and used solely for authorized program purposes.

14. Auditing of Federal Funds

a. A SFA expending a total of \$500,000 or more a year in federal funds for all programs, shall have a single or program specific audit conducted in accordance with the provisions of Circular A-133. (Refer to §333.Audit Requirements, for additional information.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2104 (December 2001), amended LR 32:1418 (August 2006).

§313. Special Functions/Catering

A. The SFA may allow the school food service program to provide services beyond the established school lunch, breakfast, and after school snack programs. Special functions and/or catering activities shall not interfere with the preparation and service of student meals/snacks.

1. Use and Sale of Commodities

a. Commodities may be used in the preparation and sale of foods for any school related functions. (Refer to Chapter 17.Commodities.)

2. Accountability

a. ...

b. School food service must be paid for all services, food, and supplies used in connection with space catering/special functions. The charges for any product or service must be sufficient to recover the full production cost (including commodities when allowed) plus a profit. At a minimum, these costs shall include food, labor (wages plus any benefits), paper and nonfood supplies, transportation, utilities, etc. It is recommended that the SFA add a minimum of 10 percent to the total bill to ensure that all costs are recouped. All monies earned or received shall accrue to the school food service account. The collection and reporting of state and local taxes shall comply with regulations governing sales and use tax. To maintain a tax-exempt status and to avoid competing with the private sector of the community, each SFA should limit catering to schools, school-sponsored events, and nonprofit organization events. (For additional information, contact the nearest district office of the Louisiana Department of Revenue and Taxation, Sales Tax Division.)

c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2106 (December 2001), amended LR 29:2023 (October 2003), LR 32:1418 (August 2006).

§333. Audit Requirements

A. SFAs that expend a total of \$500,000 or more a year in federal funds for all programs shall have a single or program-specific audit conducted in accordance with provisions of Circular A-133 Revised 1997: Audit of States, Local Governments, and Non-Profit Organizations. Louisiana Revised Statutes 24:513 also require governmental audits and examinations of quasi-public entities as specified therein.

B. The SFA should make arrangements for an annual audit in accordance with Louisiana Revised Statutes 24:513. The audit shall be made by an independent auditor [the State Legislative Auditor or a Certified Public Accountant who is licensed to practice in Louisiana and who meets the independent standards specified in Generally Accepted Government Auditing Standards (GAGAS)]. The selection of an independent auditor is the SFA's responsibility, although the legislative auditor or the state agency can provide advice to those SFAs that have little or no experience in arranging for audit services.

C. In selecting an auditor, it is not necessary to implement a formal bid process, although the services must be obtained in an efficient and economical manner that provides maximum open and free competition. The SFA must provide an opportunity for small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals to submit proposals for the audits. The engagements are subject to oversight and approval by the Legislative Auditor.

D. The auditor must evaluate internal controls including an evaluation and written report on the SFA's internal accounting and administrative control systems over its federal financial assistance programs. The auditor must also determine whether the SFA has complied with laws and regulations governing the federally assisted program(s). The auditor shall determine whether the financial statements and supplementary schedule of federal awards of the SFA present fairly its financial position, and whether the results of its financial operations are in accordance with generally accepted accounting principles. The audited financial statements/schedules must provide details relating to the financial position and results of operation of the Child Nutrition Programs.

E. One copy of the audit reports shall be sent to the Office of the Louisiana Legislative Auditor and two copies shall be sent to the Bureau of Internal Auditing, LDOE. Recipients of \$500,000 or more in federal funds shall also submit a copy of the audit report and Form SF-SAC: Data Collection Form within 30 days after its issuance to a central audit report clearinghouse. The address of the clearinghouse is:

Single Audit Clearinghouse
Bureau of the Census
Data Preparation Division
1201 E. 10th Street
Jeffersonville, Indiana 47132

F. A single audit report is due 9 months following the end of the SFA's fiscal year. The state agency is responsible for resolving findings resulting from the audit. Failure to comply with the audit requirements can result in suspension or termination of the agreement between LDOE and the SFA.

G. The SFA's prorata share of expenses of the single audit is an allowable expense. In agency-wide audits, the cost of the audit should be shared by the various funds audited on a per-hour basis. If total federal funding is less than \$500,000, no part of the audit may be charged to the non-profit school food service account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2114 (December 2001), amended LR 32:1419 (August 2006).

§341. Claim for Reimbursement

A. Each SFA shall submit a monthly claim for reimbursement in order to receive reimbursement for reimbursable meals served. The Claim for Reimbursement/System Participation Data and Claim for Reimbursement/School Participation Data are on-line forms used to report the claims data. The District Income and Expense Report shall be submitted as indicated by the state agency after the close of each fiscal year on June 30. These on-line forms and instructions are provided by the state agency.

B. Reimbursement Procedures

1. - 3. ...

4. The claim for reimbursement system and school participation data shall be submitted electronically to the state agency no later than 60 days following the last day of the month covered by the claim. Claims not submitted within 60 days shall not be paid unless authorized by the state agency. A one-time exception for late claim submission may be allowed by the state agency every 36 months with proper written justification.

5. After the 60 day period, upward adjustments for underclaimed errors shall not be made unless authorized by the state agency following a review or audit. Downward adjustments for overclaimed errors shall always be made regardless of when the error is discovered.

6. A valid claim for reimbursement has not been submitted until the District Participation Data and the Claim for Reimbursement, School Participation Data have been accurately completed and received by Appropriation Control.

7. In submitting a claim, the authorized SFA representative shall certify that the claim is true and correct, that records are available to support the claim, and that payment has not been received. Reporting of income and expenditures shall be in accordance with the system of accounting established by the state agency.

8. All School Food Authorities must be enrolled in the Electronic Fund Transfer (EFT) payment process for the receipt of reimbursement funds. Checks will not be mailed for the payment of claims. Participation in Electronic Funds Transfers can result in payments being received sooner.

a. The only requirement for participation in the EFT payment process is that you have an active checking account at a financial institution that can accept ACH credit files and remittance information electronically. Payees that receive payments via EFT will not be sent paper remittance advices. This information will be transmitted electronically will mirror the information currently being printed on check stubs. Remittance information includes: issuing agency

name, telephone number, agency number, document number, reference document number, comments and payment amount.

b. The state of Louisiana currently provides you with remittance information through the Internet. This web-based application is secured and presents detailed information about payments made from the state's central accounting system (ISIS). You have the ability to search for and view payment information for the most recent three years. Access to the application is via a Log-In Screen where the user must provide a valid taxpayer identification number (TIN-FEIN or SSN). The application is accessible through the Office of Statewide Reporting and Accounting Policy's (OSRAP) homepage at <http://www.state.la.us/OSRAP/INDEX.HTM> by clicking on the red Find Payments button.

c. The following information should be verified by your bank to guarantee the success of this process. The EFT payment will be transmitted using a CTX entry in ASCX12 Interchange Control Structures (ANSI ASC X12.5), Application Control Structure (ANSI ASC X 12.6) and ANSI ASC X 12 transactions containing the 820 Transaction Set (ANSI ASC X 12.4). The 820 Transaction Set will contain your remittance information. Your financial institution must have the ability to receive remittance information electronically and agree to provide the information to you upon request. Ensure that you specifically ask if they can provide you with the information found in the 820 Transaction Set. If you desire the receipt of remittance information as EFT's are received, you must specifically request your financial institution provide it to you. Contact the state agency for further information.

C. - D.1. ...

E. District Income and Expense Report

1. The District Income and Expense Report shall be submitted as indicated by the state agency following the close of each fiscal year on June 30. This form shall be used to report the total annual income and expenses for the SFA. Net cash resources shall also be reported on the District Income and Expense Report.

F. - F.1. ...

G. Commodities Received

1. The value of USDA Commodities received during the fiscal year, the federal reimbursement earned, and the state funds received for the fiscal year shall be considered income and reported annually on the District Income and Expense Report.

H. Expenses

1. Food Used

a. The Cost of Food Used Worksheet is prepared monthly to calculate the actual cost of food used in every school that prepares food. At the close of each fiscal year, the cost of purchased food used in all schools for the fiscal year, shall be tabulated and reported as food used in the expense section of the District Income and Expense Report. The Cost of Food Used form and instructions are provided by the state agency.

2. - 5.a. ...

I. Reporting Refunds/Rebates

1. - 3.a. ...

4. Net Cash Resources

a. The net cash resources of the SFA shall be reported on an annual basis each year on the Income and Expense Report. Residential Child Care Institutions should not complete this section of the Income and Expense Report. The purpose of this reporting is to ensure that the SFA maintains a nonprofit status. (Refer to §305.Nonprofit Status/Net Cash Resources, for further information.) To calculate net cash resources, adhere to the procedures listed below.

i. Report any cash on hand in school cafeterias and/or the central office that has not been deposited.

ii. Add the latest reconciled operating-fund bank balance.

iii. Add the total value of investments including interest earned, in certificates of deposit, money market funds, etc.

iv. Add the total of any reserve accounts for self-insurance.

v. Add the total of any reserve accounts for equipment.

vi. Add the total of any accounts receivable such as outstanding reimbursement checks.

vii. Deduct from the subtotal any payables. Examples of payables are salaries earned during the nine months of operation but remaining to be paid during the summer and any unpaid bills for the current fiscal year. Unpaid telephone and utility bills are not reported as accounts payable because they are reported as expenses only when invoiced. Any item reported on the Income and Expense Report as accounts payable shall also be reported in the appropriate category of the Claim for Reimbursement, System Data Report as an expense and shall not be reported on future claims.

viii. Total the value from all commodity invoices received during the fiscal year and report in the income section of the System Data Report.

b. The District Income and Expense Report may differ from the annual financial statements included in the general purpose financial statements of the school board. This difference is due to the fact that the District Income and Expense Report is prepared using a method similar to cash flow, while the annual financial statement of the school board is prepared on a modified accrual or accrual basis of accounting.

c. The state agency will verify net cash resources when audits are conducted. Adjustments will be made if necessary to reconcile these figures.

5. School Participation Data Claim

a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2116 (December 2001), amended LR 29:2024 (October 2003), LR 32:1419 (August 2006).

§345. Residential Child Care Institutions

A. - B. ...

C. Severe-Need Breakfast

1. RCCIs meeting the severe-need criteria may apply for severe-need funding. RCCIs are required to meet the same eligibility criteria as public or nonpublic schools. (Refer to §343.Severe-Need Breakfast, for eligibility requirements.)

2. RCCIs approved for severe-need funding shall receive the severe-need breakfast reimbursement rate throughout the school year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2119 (December 2001), amended LR 32:1420 (August 2006).

§349. Recordkeeping for RCCIs and Boarding Schools

A. - B.11.a. ...

12. Audit Requirements

a. RCCIs and boarding schools expending a total of \$500,000 or more a year in federal funds for all programs shall have a single or program specific audit conducted in accordance with the provisions of Circular A-133. (Refer to §333.Audit Requirements, for more information.) The cost for any audits performed of RCCIs or boarding schools in which total federal funds expended in a year are less than \$500,000 may not be paid from federal school food service program funding.

b. If a participating RCCI or boarding school has federal expenditures of less than \$500,000 in a fiscal year, it shall annually report this information to the Louisiana Department of Education, to ensure compliance with federal audit requirements.

12.c. - 14.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2120 (December 2001), amended LR 28:1737 (August 2002), LR 29:2024 (October 2003), LR 32:1421 (August 2006).

Chapter 5. Free and Reduced Price Meals

§503. Policy Statement

A. Requirements for a Pricing Program

1. A pricing program is one in which a separate identifiable charge is made for meals served to participants. A permanent agreement setting forth conditions for serving free and reduced price meals is entered into between the SFA and the state agency. Additional electronic forms are submitted yearly to update the permanent agreement. The electronic forms are as follows:

- a. Schedule A;
- b. policy checklist;
- c. collection officials;
- d. collection procedure;
- e. labor expense;
- f. income and expenses;
- g. verification summary report.

2. The documents listed below are part of the permanent agreement; they must be updated when adjustments or amendments are made and when requested by the state agency. These forms may be found on the memos/resources list on the Child Nutrition Programs (CNP) home page.

a. a public release/announcement to the community of the SFAs meal prices for the upcoming school year and the intent to offer free and reduced price meals to eligible students;

b. income eligibility guidelines for the current school year and other documents or provisions that contain the eligibility criteria for free and reduced price benefits;

c. the Free and Reduced-Price Meals Family Application form with instructions;

d. the letter to households regarding application for benefits;

e. the direct certification notice;

f. a copy of the notification letter to households regarding application for benefits (Meal Benefits Notice);

g. the collection procedure;

h. collection officials;

i. the notice of selection for verification and other forms of supporting documentation to assist in verification which include the following:

i. acceptable verification documents;

ii. Social Security numbers;

iii. a letter for food stamp/Family Independent Temporary Assistance Program (FITAP) office to complete;

iv. a letter for Social Security office to complete;

v. a letter for employer to complete.

j. the Benefit Change/Termination Notice;

k. the SFA letter to FITAP Office;

l. the SFA Guidance/Acceptable Income Documentation to assist household selected for verification in gathering income information;

m. verification documentation results; (verification tracker form)

3. An electronic version of the approved agreement shall be accessible to the SFA via the CNP website. All personnel responsible for the administration and supervision of the program must be thoroughly familiar with the agreement to ensure compliance with program regulations. In fulfilling its responsibilities, each pricing SFA:

a. agrees to serve meals free or at a reduced price to all children who are determined by the SFA to be eligible for such meals under 7 CFR Part 245;

b. agrees that there will be no physical segregation of or any other discrimination against any child because of inability to pay the full price of the meal; the names of the children eligible to receive free or reduced price meals shall not be published, posted, or announced in any manner; and there shall be no overt identification of any such children by use of special tokens, tickets or any other means. Further assurance is given that children shall not be required to do the following:

i. work for their meals;

ii. use a separate dining room;

iii. go through a separate serving line;

iv. enter the cafeteria through a separate entrance;

v. eat meals at a different time, or eat a different meal;

c. agrees to maintain an up to date master list of all children eligible for free and reduced price meals; this master list must be retrievable by school; the following information must be retrievable by student: approval date, transfer, drop and change in status date;

d. agrees to set reduced price charges for lunch and breakfast at or below the maximum reduced price allowed by regulations and below the full price of the lunch or breakfast;

e. agrees that the information provided by the household is confidential and will be used only for purposes of determining eligibility and verifying data;

f. agrees that in the operation of child feeding programs, no child shall be discriminated against because of race, sex, color, national origin, age, or disability and agrees to have on file procedures for handling discrimination complaints;

g. agrees to designate a school official to review applications and make determinations of eligibility. Such official will use the criteria outlined in the eligibility guidelines (Refer to §505.Application Process.);

h. agrees to establish and use a fair hearing procedure under which a family can appeal a decision made by the SFA with respect to the child's free and reduced price meal application; the SFA can challenge the continued eligibility of any child for free or reduced price meals. During the appeal and hearing, the child, who was determined to be eligible based on the face of the application submitted, will continue to receive free or reduced price meals; prior to initiating the hearing procedure, the school official(s), the parent(s), or guardian(s), may request a conference to discuss the situation, present information, and obtain an explanation of data submitted on the application and the decisions rendered; such a conference shall not in any way prejudice or diminish the right to a fair hearing; the designated hearing official must be someone who is not involved in the original eligibility determination in any way, such as advising or answering questions for the approving official. It is suggested that this person hold a higher position than the determining official; the hearing official for the free and reduced application procedure and the hearing official for verification must be the same person; the hearing procedure shall provide the following for both the family and the SFA:

i. a publicly announced, simple method for making an oral or written request for a hearing;

ii. an opportunity to be assisted or represented by an attorney or other person;

iii. an opportunity to examine, prior to and during the hearing, the documents and records presented to support the decision under appeal;

iv. a hearing scheduled with reasonable promptness and convenience, with adequate notice of its time and place;

v. an opportunity to present oral or documentary evidence and arguments supporting a position without undue interference;

vi. an opportunity to question or refute any testimony or other evidence and to confront and cross examine any adverse witness(es);

vii. a hearing that is conducted and a decision made by an official who did not participate in the decision under appeal or in any previous conference;

viii. a decision of the hearing official based on the oral documentary evidence presented at the hearing and entered into the hearing record;

ix. notifications in writing of the decision to the parties concerned and any designated representative;

x. a written record for each hearing which includes the decision under appeal, any documentary evidence and a summary of any oral testimony presented at the hearing, the decision of the hearing official and the reasons therefore, and a copy of the notification to the parties concerned of the hearing official's decision;

i. agrees to retain such written records for a period of three years after submission of the final claim for reimbursement for the fiscal year. If any audit findings have not been resolved, the records shall be maintained as long as required until the audit is closed. These records must be made available for examination by the parties concerned or their designees at any reasonable time and place during such period;

j. agrees to develop and distribute a letter/notice to each child's parent(s) or guardian(s); an application with instructions and a letter to households shall be distributed at or about the beginning of each school year or whenever there is a change in eligibility criteria; households that have been directly certified will be notified of their eligibility; the letter and the application that are sent to parents shall have only the Income Eligibility Guidelines for reduced price meals with an explanation that households with incomes at or below the reduced price guidelines may be eligible for either free or reduced price meals:

i. applications may be submitted and filed at any time during the year. Parent(s) or guardian(s) enrolling a child in a school for the first time shall be supplied with appropriate application materials regardless of the time of year the child is registered. If a child transfers from one school to another under the jurisdiction of the same SFA, eligibility will be transferred to and honored by the receiving school;

ii. if no other income is listed, an application that lists a valid food stamp/FITAP case number should be approved free for all students listed on the application. Parent(s) or guardian(s) will be promptly notified of the acceptance or denial of their application(s);

iii. in certain cases, foster children are also eligible for free or reduced price meals regardless of the income of the household with whom they reside. If a household has foster children and wishes to apply for such meals, the household should complete the application as indicated for a foster child;

iv. when an application is rejected, parent(s) or guardian(s) will be provided written notification that shall include the following elements:

(a). the reason for the denial of benefits: e.g., income in excess of allowable limits or an incomplete application;

(b). notification of the right to appeal;

(c). instructions on how to appeal; and

(d). a statement reminding parents that they may reapply for free and reduced price benefits at any time during the school year;

v. the reasons for ineligibility shall be properly documented and retained on file;

vi. interested parent(s) or guardian(s) are responsible for completing the application and returning it to the school for review. Such applications and documentation of determinations made will be maintained for a period of three years after submission of the final claim for reimbursement for the fiscal year. If any audit findings have not been resolved, the records shall be maintained as long as required until the audit is closed;

k. agrees to submit a public release containing both the free and reduced price Income Eligibility Guidelines and all other information outlined in the letter to households to

the local news media, local unemployment offices and major employers contemplating or experiencing large layoffs;

l. agrees to establish a procedure to collect money from children who pay for their meals and to count by category at the point of service the number of free, reduced price and full-price meals. The procedure used must avoid overt identification; overt identification means any act that openly identifies children as eligible for free or reduced price benefits in the Child Nutrition Programs;

m. agrees to use LDOE prototype documents or accept responsibility for variations;

n. agrees to:

i. verify eligibility for free and reduced price meals regulations;

ii. complete the verification process by November 15 of each year;

iii. maintain a summary of the verification efforts that indicates the total number of applications on file October 1, the number of eligibles as of the last day of October, the percentage or number of applications verified, techniques used, documentation submitted by households, documentation of any changes in eligibility and reasons for changes, and all relevant correspondence with households.

B. Requirements for a Nonpricing Program

1. A nonpricing program is one in which there is no separate identifiable charge made for meals served to participants. A permanent agreement setting forth conditions for serving free meals is entered into between the SFA and the state agency.

a. Additional electronic forms are submitted yearly to update the permanent agreement. The electronic forms are as follows:

i. Schedule A;

ii. policy checklist;

iii. collection officials;

iv. collection procedure;

v. labor expenses;

vi. income and expenses.

b. The documents listed below are part of the permanent agreement; they must be updated when adjustments or amendments are made and when requested by the state agency:

i. a copy of the current license, if private;

ii. Income Eligibility Guidelines for Free and

Reduced Price meals;

iii. the collection procedures;

iv. collection officials;

2. - 2.g. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2121 (December 2001), amended LR 29:2025 (October 2003), LR 32:1421 (August 2006).

§505. Application Process

A. - A.5. ...

B. Types of Applications

1. Household Application

a. The USDA prototype household application may be used by all SFAs. SFAs that choose to create a household application (such as a scannable application) must ensure that all information from the prototype application is present on the SFA application. The household application

accommodates one or more children, providing a space for identifying each child separately as a member of a food stamp household or FITAP assistance unit. (Contact the state agency for information regarding FITAP or Food Stamp Numbers.) However, a single Food Stamp or FITAP number is sufficient to establish categorical eligibility for the household. Schools must require the household to submit a separate application for each foster child.

b. Local educational agencies may not request a separate application for each child in the household that attends schools under the same local educational agency.

2. Foreign Language Application

a. Where a significant number or proportion of the population eligible to be served in the SFA needs information in a language other than English, SFAs must make reasonable efforts, considering the size and concentration of such population, to send appropriate non-English language household letters/notices and application forms to such households. (Contact the state agency for foreign language applications.)

C. - C.1. ...

D. Complete Application for Various Types of Students

1. - 3.b.i. ...

c. Foster Child

i. An individual application is required for each foster child residing in a household. The foster child section of the application must be completed, including the foster child's income. If the foster child receives no income, this must be indicated in the appropriate space on the application. The foster parent or other official must sign the application. The foster child is a household of one; therefore, other household members are not shown on the application.

d. - d.i.(c). ...

e. Homeless/Migrant/Runaway Students

i. To accommodate homeless, migrant or runaway children whose parent(s) or guardian(s) neglect to complete a free/reduced price meal application, SFAs may use one of the following procedures.

(a). The director of the homeless shelter may complete an application for the child. The director must sign the application; however, a Social Security number is not required.

(b). The SFA may complete an application for a child and approve the child for free meals based solely on their knowledge that the child's address is a homeless shelter or that the child has no known address and is indeed homeless. The decision must be based on concrete information that will support such a determination and provide the basis for that conclusion. The child's status must be confirmed by subsequent information from the homeless/migrant/runaway coordinator. If the coordinator can not confirm the child's status, the eligibility is no longer valid and the SFA must take steps to advise the household and issue a notice of adverse action informing the household that it can reapply for benefits. In this case, the family does not have to repay the meals and the reimbursement claims do not need to be adjusted since the misclassification of the family's status was a legitimate error.

(c). The Homeless/ Migrant/ Runaway Coordinator may provide a list of students in this category to document eligibility. Once an SFA official establishes a child's eligibility as homeless, migrant or runaway, that

eligibility remains in effect for the school year, provided the child was correctly certified. Documentation to substantiate free meal eligibility must consist of the following information:

- (i). child's name;
- (ii). date added;
- (iii). residence (shelter, etc.);
- (iv). signature of determining official; and
- (v). date of withdrawal from the school.

D.3.f. - F.1. ...

G. Eligibility Determination

1. Categorical Eligibility

a. ...

b. Homeless, migrant and runaway children are categorically eligible for free meal benefits. They must either have an application signed by the homeless shelter director or the local homeless/migrant/runaway coordinator or be documented on a list provided by the coordinator.

c. Foster children are not categorically eligible for free meal benefits. An application must be completed for each foster child. An eligibility determination must be based on the foster child's income information.

2. - 3.a. ...

H. Direct Certification

1. SFAs must implement direct certification of children from food stamp/households under the Child Nutrition Programs. Direct certification allows SFAs to certify children as eligible for free meals based on documentation obtained directly from the Food Stamp Office.

2. - 2.b. ...

c. the Social Security number that matches the name and date of birth of the child certified as receiving food stamp benefits; and

d. ...

3. The LDOE will provide SFAs with an electronic file that identifies Louisiana Educational Authority (LEA) enrolled students in their file who can be matched with the school's file using the student's first name, Social Security number and date of birth. Identified also are those students who match on Social Security number in both their file and the school's, but the name and the birth date are different. If the SFA chooses to extend benefits to students not matching on all three factors, documentation must be available to indicate that children receiving food stamps are the same children identified in the school system records. Failure to have the required information could result in disallowance of meals and recovery of reimbursement during a review or audit. If documentation is not available, a free and reduced price meal application must be issued to establish eligibility for that student. Documentation, as described, must be retrievable by the school.

4. - 5. ...

6. SFAs are not required to send the letter/notice and application to those households eligible under direct certification if these materials are distributed through the mail, individual student packets, or other method that prevents the overt identification of children eligible for direct certification. Under this option, households eligible under direct certification will receive a letter notifying them that their children are eligible for free benefits. Other

households will receive a parent letter or notice with an application form.

I. - M.1. ...

N. Reporting Changes in Household Circumstances

1. The Child Nutrition and WIC Reauthorization Act of 2004 states that correctly made eligibility determinations are valid for the entire school year. Households are not required to report any increase in income or decrease in household size during the school year.

2. If a household submits an additional application during the school year that would result in a decrease in benefits, the SFA should contact the household to inform them that the original application may be used for the remainder of the school year. The household must decide whether to remain on the original status or accept the decrease in benefits.

O. - Q.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2124 (December 2001), amended LR 29:2025 (October 2003), LR 32:1423 (August 2006).

§507. Determining Household Size

A. - C.1. ...

D. Military Families. Military personnel on shore duty living with the household or away on Temporary Duty (TDY) are considered household members. Military personnel serving overseas or assigned to a military base and not living with the household for an extended period of time are not considered members of the household for purposes of determining eligibility. Refer to the state agency for current exceptions to this policy (ex. deployed military personnel). Only that portion of their income made available by them or on their behalf to the household is counted as income to the household.

E. - M.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2127 (December 2001), amended LR 32:1424 (August 2006).

§509. Determining Income

A. - A.1.n. ...

B. Income Exclusions

1. The following types of income, which are not classified as reportable income, are considered income exclusions.

a. Income not to be reported or counted includes any cash income or value of benefits a household receives from any federal program that excludes such income by legislative prohibition, such as the value of food stamps, child care grant programs, or Medicare and Medicaid prescription drug card subsidies.

b. - d. ...

e. Privatized housing allowance for military personnel living off-base in housing covered under the Military Housing Privatization Initiative is not counted as income.

f. Family Subsistence Supplemental Allowance (FSSA) received by certain members of the Armed Forces is not considered as income.

g. Occasional earnings received on an irregular basis or not recurring, such as for occasional baby sitting or mowing lawns, are not considered as income.

h. The Earned Income Tax Credit is not considered income.

C. - H.1. ...

I. Military Income/Benefits

1. Military benefits received in cash, such as housing allowances for military households living off base and food allowances, must be considered as income. However, neither the allowance for military personnel living off-base in housing covered under the Military Housing Privatization Initiative nor the Family Subsistence Supplemental Allowance (FSSA) may be counted as income. The value of in-kind benefits other than cash, such as on-base housing, is also not considered as income.

J. - M.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2128 (December 2001), amended LR 32:1424 (August 2006).

§511. Program Operations

A. Nondiscrimination

1. - 4. ...

5. There must not be any overt identification of any of the children by use of special tokens or tickets. The SFA must use the collection procedure approved as part of its yearly update to the permanent agreement.

A.6. - D.3. ...

E. Privacy Act Statement

1. The meal application must contain a privacy act statement. The statement must address the following information.

a. The disclosure of a Social Security number is voluntary; however, the Social Security number of the adult signer of an income application is required for approval of the application. If the adult signer has no Social Security number, this must be indicated on the application.

b. - c. ...

Sample Privacy Act Statement

The Richard B. Russell National School Lunch Act requires the information on this application. You do not have to give the information, but if you do not, we cannot approve your children for free or reduced price meals. You must include the Social Security number of the adult household member who signs the application. The Social Security number is not required when you apply on behalf of a foster child or you list a Food Stamp Program, Family Independence Temporary Assistance Program (FITAP) or Food Distribution Program on Indian Reservations (FDPIR) case number or other FDPIR identifier for your child or when you indicate that the adult household member signing the application does not have a Social Security number. We WILL use your information to see if your child is eligible for free or reduced price meals, and for administration and enforcement of the lunch and breakfast programs. We MAY share your eligibility information with education, health, and nutrition programs to help them evaluate, fund, or determine benefits for their programs, auditors for program reviews, and law enforcement officials to help them look into violations of program rules.

F. - F.1.c.iv. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2129 (December 2001), amended LR 32:1425 (August 2006).

§513. Verification Process for School Meals

A. Verification is confirmation of eligibility for free and reduced price benefits under the NSLP or SBP. Verification must include confirmation of income eligibility or confirmation that the child is included in a certified food stamp household or FITAP assistance unit. At state or local discretion, verification may also include confirmation of any other information on the application that was required as a condition of eligibility. (Refer to §505.Application Process.)

B. Direct Certification

1. Food Stamp households are excluded from the verification process when the households are approved through direct certification. SFAs should determine the minimum number of applications required to be verified based on the number of approved applications on file as of October 1 that are not directly certified.

C. Implementation

1. Verification must take place after the application has been approved. The SFA must complete verification of the minimum required sample size by November 15. Any additional applications may be verified anytime during the school year after applications have been approved. Any verification that is done for cause is in addition to the required sample.

D. Sample Size Requirement

1. Except as otherwise noted in §513.E (Alternative Sample Size), each SFA must verify the lesser of:

a. three percent of all applications approved by the SFA for the school year as of October 1 of the school year, selected from error prone applications; or

b. 3,000 error prone applications approved by the SFA for the school year, as of October 1 of the school year.

2. Error prone applications are defined as approved household applications that indicate a monthly income that is within \$100, or an annual income that is within \$1,200, of the income eligibility limitation for free or reduced price meals. When applications have been approved based on weekly, biweekly, or bimonthly income figures, the SFA may use rounded thresholds of \$24 for weekly income, \$44 for bi-weekly income, and \$50 for twice monthly income.

3. SFAs may verify more than the required minimum sample, up to 100 percent of all approved applications, as long as the selection does not involve discrimination against anyone on the basis of race, color, national origin, age, sex, or disability. For the purpose of meeting the federal minimum verification requirement, the total number of approved applications on file in the SFA is determined on October 1. Verification may begin prior to this date. SFAs may, based on experience, project the number of approved applications that will be on file on October 1.

E. Alternative Sample Size

1. If the SFA meets either of the following conditions, the SFA may choose to implement traditional random or focused verification.

a. The nonresponse rate for the SFA for the preceding school year is less than 20 percent.

b. The SFA has more than 20,000 children approved as eligible for free or reduced price meals for the school year, as of October 1 of the school year, and:

i. the nonresponse rate for the preceding school year is at least 10 percent below the nonresponse rate for the second preceding school year; or

ii. the SFA attempts to verify all approved household applications selected for verification through the use of public agency records from at least two of the programs or sources described in §515 (Direct Verification).

F. Sample Selection Process

1. The sample size is three percent of all approved applications on file on October 1 or 3,000 applications, whichever is less. To calculate the minimum required sample size, multiply the total number of approved applications, including both income and categorical applications, by 0.03. At least one application must be verified.

2. SFAs should randomly select the required number of applications from those applications that are error prone. If there are not enough error prone applications to meet the sample size requirements, the remaining applications may be chosen randomly from the entire application pool (income and categorical applications).

G. Alternative Sample Selection Process

1. Focused Sample Selection Process

a. SFAs should focus their sampling targets for verification on applications with a high likelihood of containing errors: that is, households providing income information on the application and reporting income just below the minimum eligibility level.

b. SFAs should count all approved applications on file to determine the total. They should separate the applications into two groups:

i.. the non-categorically eligible applicants, applicants who were approved on the basis of income information; and

ii. the categorically eligible applicants, applicants who provided a FITAP or food stamp case number.

c. Income Eligible Sample

i. SFAs should use the following procedures to determine sample sizes for income eligible applicants.

(a). For applications that provide income information, the sample size is 1 percent of total approved applications (income and categorical) on file or 1,000 applications, whichever is less: e.g., total applications x 0.01.

(b). From the group that reported income information, SFAs should select those applications with monthly incomes within \$100, or annual income within \$1,200, of the income eligibility limits.

(i). If there are more applications with monthly income reported within \$100 (\$1,200 yearly) of the eligibility levels than needed to meet the minimum sample size, SFAs should select the income application sample using any method that is equitable and that ensures that the same households will not be selected year after year.

(ii). If there are not enough applications with monthly income reported within \$100/\$1,200 (yearly) of the eligibility levels to meet the required minimum sample size, SFAs should select from those applications with monthly incomes closest to the eligibility levels.

(iii). If there are not enough applications containing income information to meet the required minimum sample size, SFAs should verify all the applications approved on the basis of income information.

(iv). Zero income applications may be verified for focused sampling in addition to the required number to be verified.

d. Categorically Eligible Sample

i. SFAs should use the following procedures to determine sample sizes for categorically eligible applicants.

(a). They should determine the number required to fill the sample size by multiplying the total number of the categorically eligible applications by 0.005. The sample size is the lesser of 500 or .5 percent of all applications approved on the basis of food stamp or FITAP case numbers.

(b). From the categorically eligible group, SFAs should select the sample using the method that is equitable and should ensure that the same household is not selected each year.

2. Random Sample Selection Process

a. The random sample size is three percent of all approved applications on file on October 1 or 3,000 applications, whichever is less. To calculate the minimum required sample size, multiply the total number of approved applications, including both income and categorical applications, by 0.03. At least one application must be verified.

b. SFAs should randomly select the required number of applications. Using the random sample method, SFAs should ensure that each application must have an equal chance of being selected, including all categorical and income applications.

H. Preliminary Review. Prior to conducting any other verification activity for approved household applications selected for verification, the SFA shall ensure that the initial eligibility determination for each approved household application is reviewed for accuracy by an individual other than the individual making the initial eligibility determination. This requirement shall be waived for SFAs using a technology-based solution that demonstrates a high level of accuracy in processing an initial eligibility determination in accordance with the income eligibility guidelines of the school lunch program.

1. If the review indicates that the initial eligibility determination is correct, the SFA shall verify the approved household application.

2. If the review indicates that the initial eligibility determination is incorrect, the SFA shall:

a. correct the eligibility status of the household;

b. notify the household of the change;

c. in any case in which the review indicates that the household is not eligible for free or reduced-price meals, notify the household of the reason for the ineligibility and that the household may reapply with income documentation for free or reduced-price meals; and

d. in any case in which the review indicates that the household is eligible for free or reduced-price meals, verify the approved household application.

I. Household Notification

1. When a household is selected for verification and is required to submit documents or other forms of evidence to verify eligibility, the household must be sent a notice/letter informing it of its selection and the types of information acceptable. The letter/notice to the household should include:

a. the notice of selection for verification;

b. notification of the types of acceptable information that can be provided to confirm income include such documents as pay stubs, award letters from Food

Stamp/FITAP departments, Social Security offices, and support payment decrees from courts;

c. a request for proof that the child is a member of a currently certified food stamp household or FITAP assistance unit may be provided instead of income information;

d. a request for Social Security numbers must be provided for all adult household members of families whose eligibility is based on the submission of income information;

e. notification that information must be provided, and failure to do so will result in termination of benefits;

f. the name and toll-free telephone number of a school official who can answer questions and provide assistance; and

g. notification that the household is required to submit the requested information by a specified date, as determined by the SFA.

2. When the SFA uses agency records to verify eligibility, the letter/notice of selection is not required, since the household will not have to provide documents and household cooperation will not be necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2130 (December 2001), amended LR 29:2025 (October 2003), LR 32:1425 (August 2006).

§515. Verification Methods

A. - A.3.b. ...

c. The LDOE will disseminate the October computer listings of food stamp participants to all SFAs that are required to participate in verification. Since regulations require the verification of current or previous month's income, this listing must be utilized before the end of November.

d. ...

4. Direct Verification

a. To verify eligibility for free or reduced price meals for approved household applications selected for verification without contacting the household, an SFA may obtain and use income and program participation information from a public agency administering the following programs:

i. the food stamp program;

ii. the food distribution program on Indian reservations (FDPIR);

iii. the temporary assistance for need families program (TANF/FITAP);

iv. the state Medicaid program (contact the state agency);

v. a similar income-tested program or other source of information (contact the state agency).

b. The state agency must cooperate with the SFA by confirming the household is participating in the program using the most current data within 180 days, measured from the date of the household's free and reduced price application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2132 (December 2001), amended LR 32:1427 (August 2006).

§517. Confirmation of Eligibility Based on Income Information

A. Notification

1. The notification of selection for verification should include a request for the household to submit written evidence of the most recent month's income and provide Social Security numbers for all adult household members.

2. ...

3. If the initial income documentation does not support the eligibility determination, the SFA must request documentation of income eligibility from the family for any month between the month prior to the application to the time the household is required to provide the income documentation. If the written evidence confirms the eligibility determination previously made, the verification requirement has been satisfied. If the written evidence confirms a higher or lower income and changes the eligibility determination previously made, the verification requirement has been satisfied.

B. Follow-Up

1. If the household submits insufficient or obsolete written evidence, school officials must make at least one attempt to contact the household to request the missing written evidence of current income and advise the household that failure to comply or designate a collateral contact will result in termination of benefits. If the household subsequently submits sufficient written evidence, the verification requirement has been satisfied.

C. Notification of Adverse Action

1. If the household still does not submit sufficient written evidence or if the household failed to respond to the verification request, the SFA must send the 10-calendar day advance notice of adverse action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2132 (December 2001), amended LR 29:2026 (October 2003), LR 32:1427 (August 2006).

§519. Confirmation of Categorical Eligibility

A. Food Stamp/FITAP Office

1. When verification of eligibility involves use of computer listings of the names and case numbers of food stamp participants for September, the lists must be used before the end of October. Source information used must be current. In addition, the verification of eligibility must be accomplished so that there is sufficient time to acquire other verification from applicants identified as not currently receiving food stamp benefits.

B. Household Documentation

1. ...

2. Every time a household is approved for food stamps, it is furnished with a written letter of determination or notice of eligibility. The verifying official should examine this notice of certification to ensure that the child for whom application was made is part of a household currently participating in the Food Stamp Program. If the initial documentation does not support the eligibility determination, the SFA must request documentation of food stamp eligibility from the family for any month between the month prior to the application to the time the household is required

to provide the food stamp documentation. The notice of eligibility or the notice of certification is preferred for verification purposes.

3. - 4. ...

5. A household that does not have satisfactory food stamp/FITAP documentation may request a signed, dated letter from the Food Stamp/FITAP Office certifying that the child is part of a household currently receiving benefits or that the household previously received benefits. If the household does not currently receive benefits, the beginning and ending dates of the benefits must be specified in the letter.

C. Follow-Up

1. If the household submits insufficient or obsolete written evidence, school officials must make at least one attempt to contact the household to request the missing written evidence of current or prior (as defined in Subsection B.) participation in the food stamp/FITAP program and advise the household that failure to comply or designate a collateral contact will result in termination of benefits. If the household subsequently submits sufficient written evidence, the verification requirement has been satisfied.

D. Advance Notice

1. When it is determined that the child is not part of a household that currently receives food stamps/FITAP benefits, or that received benefits during the appropriate time period, the household must be given 10 calendar days advance notification of termination and be informed that they must submit an application. The application must include household members and income information, a Social Security number for each adult household member, and written evidence that confirms household income to establish continued eligibility for school meal benefits.

E. Acceptable Verification Confirmation

1. Verification is complete when:

a. the local Food Stamp/FITAP Office certifies that the child is in a currently certified food stamp household or is receiving FITAP funds;

b. the local Food Stamp/FITAP Office certifies that the child is in a household that received food stamp or FITAP benefits at any point in time between the month prior to application and the time the household is required to provide income documentation;

c. adequate documentation of current or prior (as defined in Subparagraph b) participation in either program has been submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2133 (December 2001), amended LR 32:1427 (August 2006).

§521. Completion of Verification

A. Completion Date

1. Verification activities must be completed by November 15 of each year. Completion means that the required number of applications has been selected, notices

have been sent to parents, Social Security numbers have been obtained for all adult household members for households providing income information, eligibility for the approved level of benefits for each applicant selected for verification has been confirmed or not confirmed, parents have been notified of changes or termination, and all changes/terminations have been implemented on or before November 15.

B. Confirmation of Eligibility, Changes/Termination

1. Verification of a household's income eligibility for free or reduced price meals must result in one of the following options.

a. No Change in Benefit Level. The household's income or food stamp or FITAP eligibility supports the level of benefits for which the household has been approved.

b. Reduction in Benefit Level. The household's income is too high for the benefits for which the household has been approved; therefore, the household's eligibility must be changed from free to reduced price, free to paid, or reduced price to paid immediately following the 10 calendar days from the date of the advance notice of adverse action, but no later than 10 operating days from the date of the final determination.

c. Increase in Benefit Level. The household's income or food stamp or FITAP eligibility qualifies the household for free meals rather than reduced price meals. Therefore, the household's eligibility must be changed from reduced price to free meals as soon as possible, but no later than three operating days from the date of the final determination, or.

d. Termination of Benefits. Households that do not cooperate with verification efforts or whose income does not support eligibility for either free or reduced price meals must be changed as outlined in §521.C, Notification of Adverse Action, below.

B2. - F.2. ...

G. Recordkeeping

1. SFAs must maintain a written description of their verification efforts. The description must include the following elements:

a. a summary of the verification efforts, such as the selection process, and the source of information used;

b. enough information for the process to be duplicated;

c. the total number of applications on file on October 1; and

d. the percentage or number of applications verified.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2133 (December 2001), amended LR 29:2026 (October 2003), LR 32:1428 (August 2006).

§523. Appendices

FOR ALTERNATIVE SAMPLING SIZE Focused Sampling Worksheet SFA Guidance/Acceptable Income Documentation

Appendix A. ...
Appendix B. SFA Guidance/ Acceptable Income Documentation

Louisiana Department of Education
Division of Nutrition Assistance
School Food Service Section
* * *

Suggested Sources of Acceptable Evidence	Written Types of Income
* * *	* * *
13. Zero Income. On occasion, a household may report no income on the application. Zero income might be reported if a parent is a live-in housekeeper and receives only room and board as compensation for work done, or if a household is being supported by non-monetary means provided by religious or civic organizations because of illness or disability. A household can be asked to provide a written statement describing the household's circumstances: i.e., how the household pays for food, housing, etc., when no income is reported. In lieu of requesting such a written statement, you may want to use a collateral contact approach to verify the application. A foster child or institutionalized household may also report zero income on the application.	Written statement from household describing how it subsists Collateral contact

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2134 (December 2001), amended LR 32:1429 (August 2006).

Chapter 11. Personnel

§1117. Exam Administration Procedures

A. The Phase I and II examinations will be administered twice a year at various locations. The Phase III examination will be administered at the conclusion of Phase III training.

B. A person who fails the Phase III examination may retake the examination within six months without repeating the Phase III training.

C. Upon successful completion of Phase III, the applicant will be assigned a certification number and issued a certification card.

D. Applicants not currently employed as acting managers shall complete the Manager Certification Program within five years from the date they first take the Phase I examination. These individuals may take the Phase I, II, and III examinations as many times as necessary to complete the Manager Certification Program, as long as all three phases are completed within five years from the date the first exam is taken. If all three phases are not passed within five years, the applicant must begin a new five-year cycle and completely start over with Phase I, unless exempt from Phase I. The second five year cycle does not begin until the applicant has passed Phase I.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2166 (December 2001), amended LR 32:1429 (August 2006).

Chapter 13. Equipment

§1303. Initial Equipment

A. The School Food Authority (SFA), with funds other than school food service funds, shall furnish initial food service equipment for each school. Initial equipment is the equipment that a sponsor is required to have to begin a School Food Service Program. This equipment is necessary for the basic preparation, storage and service of meals to children. It is not permissible for school food service funds to be used to repay the SFA for initial equipment. After the SFA has been granted approval for participation in NSLP and SBP, school food service funds may be used to replace worn out initial equipment or to purchase additional equipment.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2168 (December 2001), amended LR 32:1429 (August 2006).

§1315. Appendix

A. - B. ...

* * *

Appendix A. Table of Authorized Large Equipment Number of Lunches Served per Day

* * *

Table of Authorized Large Equipment (Cont'd.) Number of Lunches Served per Day

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
***	***						
Central Office: Computer Printer Scanner Computer hardware Computer software Audio-visual equipment Calculator/adding machine Chairs Conference table and chairs Copier Desk Desk lamp Facsimile machine Telephone	The size and amount of equipment purchased should be determined by the number of employees, student participation and usage. The type and number of computers and printers purchased should be determined by the size and complexity of the SFA.						

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2169 (December 2001), amended LR 32:1429 (August 2006).

Chapter 17. Commodities

§1703. Allocations

A. SFAs are eligible for a certain dollar level of USDA commodity assistance based on the number of lunches served multiplied by the mandated rate of assistance. This commodity assistance is referred to as planned assistance level (PAL). USDA commodities that are offered to SFAs against the dollar amount of their PAL are considered entitlement foods. Other foods that are offered to SFAs, which are not offered against the PAL, are considered bonus commodities. The SFA may refuse up to 100 percent of the USDA commodities offered to their program through an offer/acceptance system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2192 (December 2001), amended LR 32:1430 (August 2006).

§1705. Use and Sale of Commodities

A. - B.1. ...

2. workshops, demonstrations, and tests relating to the utilization of USDA commodities by the SFA.

C. Records of the kinds and quantities of USDA commodities that are used must be maintained. These USDA commodities shall not be replaced by the LDAF.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2192 (December 2001), amended LR 32:1430 (August 2006).

§1707. Further Processing of Commodities

A. Federal and state procurement regulations must be followed when contracting for the processing of commodities. All contracts exceeding the sum of \$20,000 shall be advertised and awarded to the lowest responsible bidder. Purchases less than \$20,000 shall be made by obtaining no fewer than three telephone, facsimile, or hand

written quotations. Bids shall be accepted from only approved or pre-approved USDA commodity processors as determined by the Louisiana Department of Agriculture and Forestry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2193 (December 2001), amended LR 32:1430 (August 2006).

Chapter 21. Civil Rights—Handling Complaints

§2101. Responsibilities of the SFA

A. - A.2. ...

3. The nondiscrimination poster, which must be displayed in a prominent place in each school, must be visible to all. (Refer to §2111.A)

A.4. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2197 (December 2001), amended LR 29:2034 (October 2003), LR 32:1430 (August 2006).

Chapter 23. Ethics

§2311. Purchasing

A. - B. ...

C. Breaking up purchases with the intent of circumventing formal advertising procedures is contrary to federal procurement regulations. Any change in the SFA's normal purchasing practices which results in the aggregate amount purchased becoming less than \$20,000 must be documented for review and audit purposes.

D. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2200 (December 2001), amended LR 32:1430 (August 2006).

Chapter 25. Summer Food Service Program

§2505. Feeding Sites

A. Governmental sponsors and private nonprofit sponsors may use school facilities for operating feeding sites. SFAs are not obligated to allow other SFSP sponsors to use equipment or schools.

B. Description of Feeding Sites

Your Site is:	If:	Based on:
Open	At least half the children in the area are eligible for free and reduced-price school meals.	Area eligibility data from the local school or census block group
Enrolled	At least half the children enrolled in the program are eligible for free and reduced-price school meals. or At least half the children in the area are eligible for free and reduced-price school meals.	Income eligibility statements describing the family's size and income or Area eligibility data from the local school or census block group
Camp	It offers a regularly scheduled food service as part of a residential or day camp program.	An individual child's eligibility for free and reduced-price meals
Migrant	It serves primarily children of migrant workers.	Appropriate certification from a migrant organization
NYSP	It is a college or university participating in the NYSP. or Upward Bound Programs.	A child's enrollment in NYSP or Upward Bound Programs

C. Open Feeding Sites

1. There are two primary methods that may be used to determine whether the area that will be served is eligible: use of school data or census tract data.

a. **School Data.** By identifying the parish(es) the sponsor will serve on the web based SFSP sponsor application, the percentage of free and reduced price meals for each school in the (parish(es) served will be displayed on the facility application(s). The sponsor will select a school in the same attendance zone as the prospective site with at least 50 percent of the enrolled children eligible for free and reduced price meals.

b. **Census Tract Data.** Sponsors may also document the area eligibility of their proposed sites on the basis of census tract data. However, census data should be used only when relevant, current-year information on free and reduced price eligibility in neighborhood schools is unavailable.

c. Sponsors of open sites are reimbursed for program meals served to all attending children.

D. Enrolled Sites

1. Enrolled sites serve only identified groups of children on a daily basis. Sponsors may document an enrolled site's eligibility based on eligibility forms submitted by the parents or guardians of the children enrolled at each site. If at least half of the children enrolled in the program are eligible for free or reduced price meals, the site is an eligible closed enrolled site. Alternately, an enrolled site may also meet eligibility requirements based on area eligibility data from the local school or census block data. Enrolled sites provide free reimbursable meals only to children who are enrolled in an activity program.

2. Sponsors of enrolled sites are reimbursed for program meals served to all enrolled children in attendance.

E. Residential and Nonresidential Camps

1. Residential summer camps and nonresidential day camps that offer a regularly scheduled food service as part of

an organized camping program for enrolled children may participate. In addition, nonresidential day camps must offer a continuous schedule of organized cultural or recreational programs for enrolled children; they can participate as sites only under eligible sponsoring organizations. Sponsors must collect eligibility forms and make individual determinations for all enrollees, since the sponsor is reimbursed for SFSP meals served to only those children eligible for free or reduced price school meals.

2. Camp sponsors receive reimbursement for meals served only to campers who have been individually determined eligible for free or reduced price school meals. Three reimbursable meals per eligible individual may be claimed each day.

F. Migrant Sites

1. To confirm migrant status and to document a site's eligibility, sponsors must submit information obtained from a migrant organization that certifies that the site serves children of migrant workers. If the site also serves non-migrant children, the sponsor must certify that the site predominantly serves migrant children.

2. Sponsors of migrant sites are reimbursed for program meals served to all attending children. Three reimbursable meals may be claimed each day.

G. National Youth Sports Program Sites

1. NYSP sites may qualify for the program in one of two ways: by enrollment or by a child's area of residence. All children participating at a NYSP site may receive reimbursable meals if at least 50 percent of the children enrolled in the program reside in geographical areas where poor economic conditions exist, or if at least 50 percent are individually determined to meet income eligibility guidelines that were in effect on the preceding July 1. NYSP sites may also qualify for the program by certifying in writing that the children enrolled meet the income eligibility guidelines of the Department of Health and Human Services (DHHS), which is the primary grantor for NYSP.

2. Homeless feeding sites that serve primarily homeless children may participate regardless of their location.

H. Upward Bound Program Sites

1. Sponsors can use documentation of income-eligible Upward Bound participants, provided and certified by an Upward Bound grantee to document eligibility of the SFSP closed enrolled sites, residential or non-residential camps.

2. Upward Bound income applications may be used in lieu of the SFSP meal application to determine income eligibility for all SFSP participants; both programs have an income eligibility threshold of 185 percent of the national poverty guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2201 (December 2001), amended LR 32:1430 (August 2006).

§2507. Meal Requirements

A. The SFSP meal requirements differ from those of the National School Lunch Program and School Breakfast Program. However, school sponsors of the SFSP may, with prior state agency approval, use the meal requirements of the SBP and the NSLP instead of the SFSP meal patterns.

B. According to the SFSP meal requirements, a reimbursable lunch/supper includes the following:

1. one serving of milk;
2. two fruit/vegetable servings;
3. one enriched grain/bread serving; and
4. one meat/meat alternative serving.

C. A reimbursable SFSP breakfast includes the following:

1. one serving of milk;
2. one fruit/vegetable serving; and
3. one enriched grain/bread serving.

D. A reimbursable SFSP snack includes two of the following components with the exception that milk and juice cannot be served together:

1. one milk serving;
2. one fruit/vegetable serving;
3. one enriched grain/bread serving; and
4. one meat/meat alternative serving.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2202 (December 2001), amended LR 32:1431 (August 2006).

§2509. Age Limitations

A. Children age 18 and under may receive meals through SFSP. Special permission must be granted by the state agency to feed children below the age of one year. Persons over 18 years of age who are determined by a state or local educational agency to be mentally or physically handicapped, and who participate during the school year in a public or nonprofit private school program established for the mentally or physically disabled may also participate in the SFSP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2202 (December 2001), amended LR 32:1432 (August 2006).

§2523. Audit Requirements for the Summer Food Service Program

A. Refer to §333 for specific audit requirements that also apply to approved, participating sponsoring institutions.

B. Reporting to the Louisiana Department of Education. If a participating sponsoring institution's federal expenditures are less than \$500,000 in a fiscal year, that sponsoring institution shall annually report this information to the Louisiana Department of Education, to ensure compliance with federal audit requirements.

1. Circular A-133 Subpart A §105 defines recipient or sub-recipient. The main criteria for determining if a sponsoring institution is a recipient or a sub-recipient of federal funds is compliance with federal program requirements as a criteria of receiving and expending the federal funds.

C. While a sponsoring institution that does not meet the annual federal expenditure threshold of \$500,000 is not required to have an audit of such funds, records must be available for review or audit by appropriate officials of any federal, state, or local government agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1737 (August 2002), amended LR 29:2034 (October 2003), LR 32:1432 (August 2006).

Chapter 31. Disaster Feeding

§3109. Disaster Relief Feeding Plan

A. The state recommends that a Disaster Relief Feeding Plan be developed and written by the CNP director along with other local Emergency Preparedness Organizations.

B. The disaster plan should be distributed to all schools and should include the following information:

1. names and emergency telephone numbers of suppliers, school officials, local government agencies, law enforcement, etc.;

2. organizational line chart indicating names and telephone numbers of emergency relief officials;

3. names and telephone numbers of contact people from the Red Cross, Salvation Army, or other agencies that will assist in managing shelters;

4. a list of buildings to be used as shelters with their addresses, telephone numbers; the order in which shelters will be opened; the names/positions/telephone numbers of managing personnel; layout of the school indicating which areas may be used to place evacuees; electrical, water and gas shut-off; and emergency telephone procedures, keys, etc.;

5. emergency shut down procedures for SFS;

6. emergency procedures to secure school food service vehicles as well as to locate refrigerated vendor trucks for a possible storage, if needed;

7. - 20. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2206 (December 2001), amended LR 32:1432 (August 2006).

Weegie Peabody
Executive Director

0608#008

RULE

Board of Elementary and Secondary Education

Re-Employment within State and
Statewide Retirement Systems
(LAC 58:IV.101)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education repealed Title 58, Part IV, Chapter 1, §101, from the *Louisiana Administrative Code*. Title 58, Part IV, Chapter 1, §101 references Louisiana Revised Statutes pertaining to retired teachers returning to work. The provisions regarding Teachers' Retirement System of Louisiana (TRSL) retirees returning to work in the field of education are found in R.S. 11:710 and should not be a part of the *Louisiana Administrative Code*.

Title 58

RETIREMENT

Part IV. Board of Elementary and Secondary Education Chapter 1. General Provisions

§101. Re-Employment with Respect to State and Statewide Retirement Systems

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R. S. 42:697.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 14:81 (February 1988), repealed LR 32:1432 (August 2006).

Weegie Peabody
Executive Director

0608#009

RULE

Tuition Trust Authority Office of Student Financial Assistance

START Savings Program
(LAC 28:VI.107, 305, 309, and 311)

The Louisiana Tuition Trust Authority (LATTA) has amended Rules of the Student Tuition Assistance and Revenue Trust (START Saving) Program (R.S. 17:3091 et seq.)(ST0671R).

Title 28 EDUCATION

Part VI. Student Financial Assistance—Higher Education Savings—Tuition Trust Authority

Chapter 1. General Provisions

Subchapter A. Student Tuition Trust Authority

§107. Applicable Definitions

* * *

Independent Student—is a person who is defined as an independent student by the Higher Education Act of 1965 (20 U.S.C. 1088) (HEA), as amended, and if required, files an individual federal income tax return in his/her name and designates him/herself as the beneficiary of an ESA.

1. The HEA defines independent student as a student who:

a. reached 24 years of age prior to January of the year preceding the academic year for which the student is applying for aid;

b. is a veteran of the U.S. Armed Forces, including a student who was activated to serve in Operation Desert Storm or is currently serving on active duty in the Armed Forces for other than training purposes;

c. is an orphan, in foster care, or a ward of the court or was in foster care or was a ward of the court until the individual reached the age of 18;

d. has legal dependents other than a spouse;

e. is a graduate or professional student;

f. is married; or

g. has been determined independent by a financial aid officer exercising professional judgment in accordance with applicable provisions of the HEA.

2. An independent student may only open an account as an account owner if he/she is 18 years or older.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 28:2334 (November

2002), LR 29:556 (April 2003), LR 30:786 (April 2004), LR 30:1169 (June 2004), LR 30:2302 (October 2004), LR 31:639 (March 2005), LR 32:1433 (August 2006).

Chapter 3. Education Savings Account

§305. Deposits to Education Savings Accounts

A. - A.2. ...

3. An initial deposit is not required to open an Education Savings Account; however, a deposit of at least \$10 must be made within 60 days from the date on the letter of notification of approval of the account.

A.4 - C. ...

1. All deposits must be rendered in amounts of at least \$10 and must be made in cash, check, money order, automatic account debit or payroll deduction, defined as any of the deposit options listed in §305.B.1.

C.2. - D.2. ...

3. The account owner shall select one investment option in completing the owner's agreement.

4. The investment option can be changed no more than once in any 12-month period.

5. Once a selection is made, all deposits shall be directed to the investment option selected.

6. Requests for the transfer of funds from the variable earnings option in which they are currently deposited to a different option shall be assigned a trade date as follows:

a. if an on-line request for a change from a variable earnings option is completed before 7 p.m. Central Standard Time or Central Daylight Savings Time, as applicable, on a trade day, the trade date shall be the date of the request;

b. for all other requests, the trade date shall be one business day after the business day of receipt of the transfer request.

E. - E.2.a. ...

b. Deposits made by electronic funds transfer through the Automated Clearing House (ACH) Network, or its successor, will be assigned a trade date of five business days after the business day during which they were received.

c. Deposits made by all other means of electronic funds transfer will be assigned a trade date of one business day after the business day during which they were received.

E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1270 (July 1998), LR 26:2263 (October 2000), LR 27:1880 (November 2001), LR 30:788 (April 2004), LR 30:1169 (June 2004), LR 30:2305 (October 2004), LR 32:1433 (August 2006).

§309. Disbursement of Account Funds for Payment of Qualified Higher Education Expenses of a Beneficiary

A. - A.6. ...

7. Disbursements from investment options with variable earnings shall be assigned a trade date as follows:

a. if an on-line request for a disbursement is completed before 7 p.m. Central Standard Time or Central Daylight Savings Time, as applicable, on a trade day, the trade date shall be the date of the request;

b. for all other requests for disbursement, the trade date shall be one business day after the business day of receipt of the transfer request.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:716 (June 1997), amended LR 24:1272 (July 1998), LR 24:2238 (December 1998), LR 26:2265 (October 2000), LR 27:1881 (November 2001), LR 30:789 (April 2004), LR 30:1169 (June 2004), LR 32:1433 (August 2006).

§311. Termination and Refund of an Education Savings Account

A. - B.2. ...

3. The LATTA may terminate an account if no deposit of at least \$10 dollars has been made within 60 days from the date on the letter of notification of approval of the account.

B.4. - C.4. ...

5. Refunds from investment options with variable earnings shall be assigned a trade date as follows.

a. If an on-line request for a refund is completed before 7 p.m. Central Standard Time or Central Daylight Savings Time, as applicable, on a trade day, the trade date shall be the date of the request.

b. For all other requests for refund, the trade date shall be one business day after the business day of receipt.

D. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:717 (June 1997), amended LR 24:1273 (July 1998), repromulgated LR 26:2265 (October 2000), amended LR 27:38 (January 2001), LR 27:1882 (November 2001), LR 28:779 (April 2002), LR 30:790 (April 2004), LR 31:639 (March 2005), LR 32:1434 (August 2006).

George Badge Eldredge
General Counsel

0608#017

RULE

**Tuition Trust Authority
Office of Student Financial Assistance**

**START Savings Program—Education Savings Account
(LAC 28:VI.315)**

The Louisiana Tuition Trust Authority has amended its START Savings Program Rules (R.S. 17:3091 et seq.) (ST0670R).

**Title 28
EDUCATION**

**Part VI. Student Financial Assistance—Higher
Education Savings—Tuition Trust Authority
Chapter 3. Education Savings Account**

§315. Miscellaneous Provisions

A. - B.12. ...

13. For the year ending December 31, 2005, the Louisiana Education Tuition and Savings Fund earned an interest rate of 3.64 percent.

14. For the year ending December 31, 2005, the Earnings Enhancements Fund earned an interest rate of 4.92 percent.

C. - R. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:1761 (August 2002), LR 28:2335 (November 2002), LR 29:2038 (October 2003), repromulgated LR 29:2374 (November 2003), amended LR 30:791 (April 2004), LR 30:1472 (July 2004), LR 31:2216 (September 2005), LR 32:1434 (August 2006).

George Badge Eldredge
General Counsel

0608#018

RULE

**Office of the Governor
Division of Administration
Office of Risk Management**

**Reporting of Claims
(LAC 37:I.Chapter 1-25)**

Under the authority of R.S. 39:1535, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Risk Management has repealed LAC 37, Part I Structured Settlements, which is only relevant to political subdivisions of the state of Louisiana and not subject to the Louisiana Office of Risk Management's rules and regulations. Additional changes were made to renumber the existing Sections in accordance with LAC uniform system of codification.

**Title 37
INSURANCE**

**Part I. Risk Management
Subpart 1. Structured Settlements**

Chapter 1. Definitions

§101. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R. S. 13:5114.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 12:234 (April 1986), amended LR 31:56 (January 2005), repealed LR 32:1434 (August 2006).

Chapter 3. Structured Settlement Services

§301. Qualifying Criteria for Acceptable Structured Settlement Firms

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 13:5114.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 12:235 (April 1986), amended LR 12:832 (December 1986), LR 16:614 (July 1990), LR 17:1206 (December 1991), LR 31:57 (January 2005), repealed LR 32:1434 (August 2006).

**§303. Application, Investigation, Verification, List-
Keeping of Qualified Structured Settlement
Firms**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 13:5114.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 12:235 (April 1986), amended LR 31:58 (January 2005), repealed LR 32:1434 (August 2006).

§305. Grounds for Removal from List

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 13:5114.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 12:235 (April 1986), amended LR 31:58 (January 2005), repealed LR 32:1435 (August 2006).

§307. Selection of Structured Settlement Firm for Structured Settlement Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R. S. 13:5114.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 12:236 (April 1986), amended LR 12:832 (December 1986), LR 31:58 (January 2005), repealed LR 32:1435 (August 2006).

§309. Qualified Plan Offerors and Providers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 13:5114 and 39:1527.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 12:236 (April 1986, amended LR 12:832 (December 1986), LR 16:615 (July 1990), LR 17:1207 (December 1991), LR 31:59 (January 2005), repealed LR 32:1435 (August 2006).

§311. Selection of Plan Providers from among Plan Offerors

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R. S. 13:5114.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 12:236 (April 1986), amended LR 31:59 (January 2005), repealed LR 32:1435 (August 2006).

§313. Disqualification of Plan Offerors and Providers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 13:5114.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 12:237 (April 1986), amended LR 31:60 (January 2005), repealed LR 32:1435 (August 2006).

Chapter 5. Insurance Policies, Trust Contracts, and Other Evidence of Obligations Implementing Structured Payment Plans

§501. Depositary for Annuities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R. S. 13:5114.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 12:237 (April 1986), amended LR 31:61 (January 2005), repealed LR 32:1435 (August 2006).

Chapter 7. Administrative Procedures

§701. Dissatisfaction with Structured Settlement Firms and/or Plan Providers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R. S. 13:5114.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management,

LR 12:237 (April 1986), amended LR 31:61 (January 2005), repealed LR 32:1435 (August 2006).

§703. Appeals from Decisional Acts of the Office of Risk Management

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R. S. 13:5114.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 12:237 (April 1986), amended LR 31:61 (January 2005), repealed LR 32:1435 (August 2006).

§705. Appeals from the Commissioner

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R. S. 13:5114.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 12:238 (April 1986), amended LR 31:61 (January 2005), repealed LR 32:1435 (August 2006).

Editor's Note: The following Sections have been renumbered in accordance with the LAC uniform system of codification.

Subpart 1. Insurance and Related Matters

Chapter 1. Underwriting

§101. Underwriting

A. All coverages which are self-insured by the Office of Risk Management are mandatory for all Louisiana state departments, agencies, boards, and commissions.

B. If any department, agency, board, or commission requires or wishes to procure any insurance coverages which are not written through the Louisiana Self Insurance Program, request is to be made to the Office of Risk Management to procure said coverage. It is the responsibility of the department, agency, board, or commission to provide the underwriting information required to procure or underwrite the risk.

C. All leases for real and movable property (including vehicles) which are entered into by any state department, agency, board, or commission are to be forwarded to the Office of Risk Management for review in compliance of insurance requirements.

D. All inquiries regarding interpretation of insurance coverages are to be addressed to the Underwriting Unit and are to be in a written form.

E. Boiler and machinery equipment at new locations are to be reported to the Underwriting Unit.

F. Builder's risk projects are to be reported to the Underwriting Unit when the construction contract has been awarded or the "Notice to Proceed" has been issued.

G. All newly constructed state-owned buildings are to be reported to the Underwriting Unit upon acceptance/completion.

H. All newly acquired state-owned aircraft are to be reported to the Underwriting Unit immediately but in no event more than 30 days after acquisition. All newly leased or borrowed aircraft are to be reported to the Underwriting Unit immediately but in no event more than 30 days after possession or lease.

I. Any newly acquired, constructed, leased, or borrowed airport or heliport facilities are to be reported to the Underwriting Unit before coverage will be effective.

J. All newly acquired state-owned marine vessels which are over 26 feet in length are to be reported to the Underwriting Unit immediately but in no event more than 30 days after acquisition. All newly leased or borrowed marine

vessels which are over 26 feet in length are to be reported to the Underwriting Unit immediately but in no event more than 30 days after possession or lease.

K. Applications for new crime policies are to be submitted to the Underwriting Unit. Coverage does not become effective until the insurance company has accepted the new risk.

L. All departments, agencies, boards, and commissions are to provide the name, address, telephone number, and job title of the following:

1. the department, agency, board, or commission head;
2. the person(s) to receive insurance premium billings;
3. the safety coordinator or person(s) responsible for loss prevention matters;
4. the person(s) responsible for handling and disposition of claims matters;
5. the person(s) responsible for reporting exposure information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 13:19 (January 1987), amended LR 31:61 (January 2005), LR 32:1435 (August 2006).

Chapter 3. Auditing and Statistics

§301. Auditing and Statistics

A. The exposure data requested by the Office of Risk Management (ORM) are to be submitted in a timely manner and in the form specified. The exposures may include, but are not limited to:

1. payroll;
2. maritime payroll;
3. number of board and commission members;
4. mileage of all licensed vehicles which are state-owned or leased, and all mileage on personal vehicles driven in the course and scope of state employment;
5. number of licensed vehicles;
6. acquisition or appraised value of property including, but not limited to, buildings, improvements, and inventory (includes contents, all equipment including mobile equipment and watercraft 26 feet and under), and boiler and machinery;
7. medical malpractice exposures including, but not limited to, patient days, clinic visits, emergency room visits, number of residents/ interns, and miscellaneous categories;
8. number of employees, and miscellaneous or special classes not falling within these definitions as required.

B. Billed units are to allocate premiums to subunits if required. It is not the ORM's responsibility to provide breakdowns at a lower level than the level to which premiums were budgeted or billed.

C. The Office of Risk Management is to receive immediate written notification of the abolishment, transfer, and/or merger of any department, agency, board or commission.

D. The state agencies are to provide or allow access to ORM representatives to records or information necessary to the effective operation of the risk management program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management,

LR 13:19 (January 1987), amended LR 15:85 (February 1989), LR 31:62 (January 2005), LR 32:1436 (August 2006).

Chapter 5. Billing

§501. Billing and Collection of Insurance Premiums

A. After an agency receives a billing invoice from the Office of Risk Management for payment of insurance premiums, the agency is to render payment in full within 30 days from the billing date.

B. Every agency shall timely pay premiums billed by the Office of Risk Management. In the event any agency fails to pay any premiums due the Office of Risk Management within 120 days of the effective date of the appropriated insurance coverages, the commissioner of administration may upon request by the Office of Risk Management draw a warrant against budgeted funds of any delinquent agency directing the treasurer to pay the Office of Risk Management for the unpaid premiums. If an agency is a non-depository agency, the commissioner of administration may direct the head of such agency to render payment of insurance premiums due and owing to the Office of Risk Management.

C. All billing inquiries are to be directed to the Office of Risk Management, Accounting Unit, Accounts Receivable Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 13:20 (January 1987), amended LR 31:62 (January 2005), LR 32:1436 (August 2006).

Chapter 7. Reporting of Claims

§701. Reporting of Property Damage Claims

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states..."you must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. The state of Louisiana provides insurance coverage for damage to state-owned property which includes damage to buildings and improvements, contents, inventories, mobile equipment, heating and air conditioning systems, and marine hulls 26 feet and under.

C. All claims for damage to property owned by the state are to be reported to the Office of Risk Management's Property Claim Unit in writing. If a loss or claim is serious in nature, it is to be reported by telephone to the Office of Risk Management's Property Claim Unit.

D. Claims are to be submitted, in writing, to the Office of Risk Management, P.O. Box 91106, Baton Rouge, LA 70821-9106.

E. Information required to be submitted when a claim is reported to the Office of Risk Management's Property Claim Unit includes the following:

1. name of insured, location of property or unit;
2. date of loss;
3. description of loss;

4. location of item, state building ID/property control tag number;
5. size, model, and serial number of item, if applicable;
6. name of person reporting claim, listing job title, and telephone number; and
7. proof of ownership.

F. After a loss has occurred, all property which has been damaged is to be protected against further damage and is to be made available for inspection by a claims adjuster assigned by the Office of Risk Management.

G. If a loss occurs or a claim arises, the agency is not to assume any obligation or incur any expenses without authorization from the Office of Risk Management, but should act to protect property and minimize the loss.

H. If repair or replacement is not accomplished within 36 months of the loss date; or, if approval is not obtained from the commissioner of administration to use the funds for some other purpose, or to extend the 36 month prescriptive period, the claim file will be closed.

I. All lawsuits, demands, notices, summons, or other legal documents pertaining to a claim against a state agency are to be forwarded immediately to the Office of Risk Management, Property Claims Unit for further handling.

J. Any objects and/or products which may have caused, contributed to, or which are suspect of causing an accident are to be retained and preserved as evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 13:20 (January 1987), amended LR 15:85 (February 1989), LR 31:62 (January 2005), LR 32:1436 (August 2006).

§703. Reporting of Boiler and Machinery Claims

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states: "...you must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. The state of Louisiana provides insurance coverage for bodily injury and third party property damage claims where such losses result from state-owned boiler and machinery equipment, and for property damage to state-owned boiler and machinery equipment.

C. All claims for damage to boiler and machinery equipment are to be reported to the Office of Risk Management's Property Claim Unit in writing. Any claim involving bodily injury is to be reported by telephone to the Office of Risk Management's Property Claims Unit.

D. Claims are to be submitted in writing to the Office of Risk Management, P.O. Box 91106, Baton Rouge, LA 70821-9106.

E. Information required to be submitted when a claim is reported to the Office of Risk Management's Property Claim Unit includes the following:

1. name of insured, location of property or unit;

2. date of loss;
3. description of item, to include size, model, serial number, and tonnage or capacity;
4. name, job title, and telephone number of person reporting claim;
5. name and phone number of person to be contacted by adjuster assigned by ORM.

F. After a loss has occurred, the property which has been damaged is to be protected against further damage and is to be made available for inspection by a claims adjuster.

G. If replacement, repair, reconstruction, or rebuilding is not commenced within 36 months of the loss date for all state property losses; or if a claim remains inactive for 36 months after replacement, repair, reconstruction or rebuilding is commenced; or if approval is not obtained from the commissioner of administration within the same period of time for expenditure of insurance proceeds for some other purpose, the claim file will be closed.

H. All lawsuits, demands, notices, summons, or other legal documents pertaining to a claim against a state agency are to be forwarded immediately to the Office of Risk Management's Property Claim Unit for further handling.

I. Any objects and/or products which may have caused, contributed to, or which are suspect of causing an accident are to be retained and preserved as evidence.

AUTHORITY NOTE: Promulgated in accordance with R. S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 13:20 (January 1987) amended LR 15:85 (February 1989), LR 31:63 (January 2005), LR 32:1437 (August 2006).

§705. Reporting of Comprehensive General Liability Claims

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states: "...you must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. The state of Louisiana provides Comprehensive General Liability coverage for bodily injury and property damage claims resulting from operations for which the agency could be held legally liable.

C. All general liability claims are to be submitted, in writing, to the Office of Risk Management on a General Liability Claim Reporting Form or in a narrative format. The General Liability Claim Reporting Form can be found on the Office of Risk Management's web site, www.doa.louisiana.gov/orm.

D. Claims are to be submitted, in writing, to the Office of Risk Management, P.O. Box 91106, Baton Rouge, LA 70821-9106.

E. If a loss is serious in nature, it is to be reported by telephone to the Office of Risk Management for review to determine if coverage is applicable.

F. Claims which are made against a state agency by a third party are to be submitted to the Office of Risk

Management for review to determine if coverage is applicable.

G. All lawsuits, demands, notices, summons, or other legal documents pertaining to a claim against a state agency are to be forwarded immediately to the Office of Risk Management's Claim Office for further handling.

H. Any objects and/or products which may have caused, contributed to, or which are suspected of causing an accident are to be removed from service, retained and preserved as evidence.

I. If a loss occurs or a claim arises the agency is not to assume any obligation or incur any expenses without authority from the Office of Risk Management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 13:20 (January 1987), amended LR 15:85 (February 1989), LR 31:63 (January 2005), LR 32:1437 (August 2006).

§707. Reporting of Worker's Compensation and Maritime Claims

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states: "...you must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. The state of Louisiana provides insurance coverage for Worker's Compensation and Maritime Claims.

C. All accidents or occupational diseases involving state employees while in the course and scope of their employment with the state are to be reported to the Office of Risk Management within five days from the date of injury or knowledge. The forms used for this purpose are the Employer's Report of Occupational Injury or Disease Form (E-1, completed at the time of the accident), and the Pre-Existing Condition Form (E-2, which was completed when hired). The Office of Risk Management will accept electronic filing of the Employer's Report of Occupational Injury or Disease Form. Access www.doa.louisiana.gov/orm and click on Agency Claims Reporting System.

D. Employer's Report of Occupational Injury or Disease Forms can be obtained from the Office of Risk Management's web address cited in the above paragraph. The Pre-Existing Condition Form can be obtained from the Office of Risk Management, Claims Section, P.O. Box 91106, Baton Rouge, LA 70821-9106.

E. A copy of the Employer's Report of Occupational Injury or Disease Form and a copy of the Pre-Existing Condition Form for a claim in which lost time exceeds seven days, is to be submitted to the Office of Worker's Compensation Administration, P.O. Box 94040, Baton Rouge, LA 70804-9040 within 10 days of actual knowledge of injury or death.

F. All Employer's Report of Occupational Injury or Disease Forms and Pre-existing Condition Forms are to be accurately and completely filled out.

G. Information required to be submitted when a worker's compensation claim is reported on the Employer's Report of Occupational Injury or Disease Form includes:

1. agency's location code number (located in a block below the Employer's Federal Tax I.D. Number);

2. the occupation of the employee, inclusive of his/her classified or unclassified job title. A classified job title is to include the civil service job classification code number;

3. an injured employee's weekly wages are to be reported on the Employer's Report of Occupational Injury or Disease Form.

H. Information which is to be contained on the Preexisting Condition Form includes:

1. complete name, age, Social Security number, residential address, and civil service position being applied for;

2. check list of possible pre-existing diseases, disabilities, and/or conditions before employment;

3. description of particulars relative to any checked pre-existing permanent disabilities;

4. name and address of employer at time of previous injury;

5. witnessed and dated signature of applicant as to the completeness, accuracy, and validity of the information contained on the Pre-Existing Condition Form.

I. If an injured employee returns to work after having lost time, the Office of Risk Management, Worker's Compensation Claims Unit, is to be notified immediately by telephone or electronic mail, and an Employer's Supplemental Report of Injury is to be submitted confirming the return to work date. Also, an Employer's Supplemental Report of Injury Form is to be submitted to the Office of Risk Management at any time the injured employee's work status changes.

J. All lawsuits, demands, notices, summons, or other legal documents pertaining to claims are to be forwarded immediately to the Office of Risk Management's Claim Office for further handling.

K. Any objects and/or products which may have caused, contributed to, or which are suspected of causing any accident are to be retained and preserved as evidence.

L. Any claim paid by legislative appropriation is to be reported to the Office of Risk Management by Appropriations Control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 13:21 (January 1987) amended LR 15:85 (February 1989), LR 16:401 (May 1990), LR 31:64 (January 2005), LR 32:1438 (August 2006).

§709. Reporting of State Automobile Liability and Physical Damage Claims

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states: "...you must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate

the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. The state of Louisiana provides insurance coverage for liability and physical damage to state-owned and leased licensed vehicles and excess liability coverage for employee's private automobiles while being operated with proper authorization during the course and scope of state employment.

C. All claims for liability or physical damage to state-owned and leased licensed vehicles are to be reported to the Office of Risk Management's Transportation Claims Unit in writing. If a loss involves property damage estimated at \$5,000 or more or if a loss involves any bodily injury, the loss is to be reported by telephone to the Office of Risk Management Transportation Claims Unit.

D. All claims are to be submitted to the Office of Risk Management, Transportation Unit, P.O. Box 91106, Baton Rouge, LA 70821-9106 on a DA 2041 (revised 12/98) accident report form. This form must be completed within 48 hours after an automobile accident. These forms are available through DOA/Forms Management and the Office of Risk Management's web site, www.doa.louisiana.gov/orm.

E. The Automobile Accident Form (DA 2041) must be completed and submitted to the Office of Risk Management, Transportation Unit, P.O. Box 91106, Baton Rouge, LA 70821-9106 or faxed to (225) 342-4470 within 48 hours after the accident occurred.

F. Automobile accident reports are to be submitted with as much information as possible; however, if certain information is unavailable, the report is to still be submitted. Information which is unavailable can be obtained at a later date.

G. All lawsuits, demands, notices, summons, or other legal documents pertaining to a claim against a state agency are to be submitted immediately to the Office of Risk Management's Claim Office for further handling.

H. Any objects and/or products which may have caused, contributed to, or which are suspected of causing an accident are to be retained and preserved as evidence.

I. If a loss occurs or a claim arises, do not assume any obligation or incur any expenses without authority from the Office of Risk Management.

J. If repair or replacement of a state vehicle is not completed within 12 months of the loss date, or if approval is not obtained from the commission of administration within the same period of time for expenditure of insurance proceeds for some other purpose, the claim file will be closed.

K. More information relative to the reporting of state automobile liability and physical damage claims such as reimbursement of collision deductible on employees' personally-owned vehicle used on state business, towing of state vehicles, reduction of automobile liability limit in a special circumstance, rented motor vehicles and/or courtesy vehicles, and guidelines for in-house repairs to state owned licensed vehicles can be found on the Office of Risk Management's web site, www.doa.louisiana.gov/orm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management,

LR 13:21 (January 1987) amended LR 15:85 (February 1989), LR 31:65 (January 2005), LR 32:1438 (August 2006).

§711. Reporting of Aviation Claims

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states: "...you must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. The state of Louisiana provides insurance coverage for aviation losses which includes liability and hull coverage. All claims are to be reported to the Office of Risk Management's Transportation Claims Unit.

C. Claims are to be submitted within 48 hours after an accident/incident to the Office of Risk Management, Transportation Unit, P.O. Box 91106, Baton Rouge, LA 70821-9106 on the Aviation Accident Report form furnished by the Office of Risk Management. Please contact the transportation unit supervisor for these forms.

D. All lawsuits, demands, notices, summons, or other legal documents pertaining to a claim against a state agency are to be forwarded immediately to the Office of Risk Management's Transportation Claims Unit for further handling.

E. Any objects and/or products which may have caused, contributed to, or which are suspected of causing an accident are to be retained and preserved as evidence.

F. If a loss occurs or a claim arises, the agency is not to assume any obligations or incur any expenses without authority from the Office of Risk Management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 13:21 (January 1987) amended LR 15:85 (February 1989), LR 31:65 (January 2005), LR 32:1438 (August 2006).

§713. Reporting of Wet Marine Claims (Over 26 Feet)

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states: "...you must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. The state of Louisiana provides insurance for liability and hull damage for marine vessels over 26 feet in length.

C. All claims involving vessels in excess of 26 feet are to be reported, in writing, to the Office of Risk Management's Transportation Unit. All bodily injury claims are to be reported by telephone to the Office of Risk Management's Transportation Unit.

D. Claims are to be submitted in writing within 48 hours after an accident/incident to the Office of Risk Management, Transportation Unit, P.O. Box 91106, Baton Rouge, LA 70821-9106.

E.1. Information required to be submitted when a claim is reported to the Office of Risk Management's Transportation Unit includes the following:

- a. complete description of vessel, including hull identification and coast guard certificate number;
- b. name of captain or master and passengers;
- c. exact location of incident;
- d. date and time of incident;
- e. names and addresses of third parties involved if known;
- f. description of damages;
- g. contact persons who can assist in investigation;
- h. circumstances surrounding and/or cause of accident.

2. All accidents/incidents involving ferry boats are to be reported to the Office of Risk Management on the Department of Transportation (DOTD) accident report forms: DOTD 03-18-3023 for private vehicles and DOTD 03-18-3024 for passenger(s) injured.

F. All lawsuits, demands, notices, summons, or other legal documents pertaining to a claim against a state agency are to be forwarded immediately to the Office of Risk Management's Transportation Claims Unit for further handling.

G. Any objects and/or products which may have caused, contributed to, or which are suspected of causing an accident are to be retained and preserved as evidence.

H. If a loss occurs or a claim arises, the agency is not to assume any obligation or incur any expenses without authority from the Office of Risk Management.

I. Refer to the Office of Risk Management's web site, www.doa.louisiana.gov/orm, for procedures for repairing water vessels (over 26 feet) covered by the commercial insurance market.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 13:21 (January 1987), amended LR 15:85 (February 1989), LR 31:65 (January 2005), LR 32:1439 (August 2006).

§715. Reporting of Bond and Crime Claims

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states: "...you must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. The state of Louisiana provides insurance coverage for bond and crime which includes performance, money and securities. All claims are to be reported, in writing, to the Office of Risk Management's Property Claims Unit, P.O. Box 91106, Baton Rouge, LA 70821-9106.

C. Information required to be submitted includes the following:

1. name of insured agency;
2. date of loss;
3. location of loss;
4. circumstances surrounding the occurrence;
5. approximate value of loss; and
6. name of person reporting claim, listing job title and telephone number.

D. Claims are to be submitted, in writing, to the Office of Risk Management, P.O. Box 91106, Baton Rouge, LA 70821-9106.

E. Any objects and/or products which may have caused, contributed to, or which are suspected of causing an accident are to be retained and preserved as evidence.

F. If a loss occurs or a claim arises, the agency is not to assume any obligation or incur any expenses without authority from the Office of Risk Management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 13:22 (January 1987), amended LR 15:85 (February 1989), LR 31:66 (January 2005), LR 32:1440 (August 2006).

§717. Reporting of Medical Malpractice Liability Claims

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states: "...you must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. Prior to July 1, 1988 the State of Louisiana provided medical malpractice coverage in accordance with the provision of R.S. 40:1299.39 which details coverage and liability provisions. Effective July 1, 1988, the State of Louisiana became self-insured for medical malpractice. Medical malpractice coverage is extended to state health care facilities and individuals acting in a professional capacity in providing health care services by or on behalf of the state, including medical, surgical, dental, or nursery treatment of patients.

C. Coverage excludes the following:

1. premises liability;
2. bodily injury to employees arising out of employment by the insured;
3. all obligations under worker's compensation or similar laws; and
4. bodily injury in handling or maintenance of automobiles, aircraft, watercraft, or transportation of mobile equipment by an auto owned, operated, rented, or loaned to any insured.

D. Claims are to be submitted, in writing, to the Office of Risk Management, P.O. Box 91106, Baton Rouge, LA 70821-9106.

E. If a loss is serious in nature, it is to be reported by telephone to the Office of Risk Management for review to determine if coverage is applicable.

F. Claims which are made against a state agency by a third party are to be submitted to the Office of Risk Management for review to determine if coverage is applicable.

G. All lawsuits, demands, notices, summons, or other legal documents pertaining to a claim against a state agency are to be forwarded immediately to the Office of Risk Management's Medical Malpractice Claim Unit for further handling.

H. Any objects and/or products which may have caused, contributed to, or which are suspected of causing an accident are to be retained and preserved as evidence.

I. If a loss occurs or a claim arises, the agency is not to assume any obligation or incur any expenses without authority from the Office of Risk Management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 13:22 (January 1987), amended LR 15:85 (February 1989), LR 31:66 (January 2005), LR 32:1440 (August 2006).

§719. Reporting of Road and Bridge Hazard Claims (Department of Transportation and Development)

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states: "...you must see to it that we are notified as soon as practicable of an 'occurrence' or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. The state of Louisiana provides road and bridge hazard liability coverage for bodily injury and property damage claims resulting from the establishment, design, construction, existence, ownership, maintenance, use, extension, improvement, repair, or regulation of any state bridge, tunnel, dam, street, road, highway, or expressway for which the agency could be held legally liable.

C. All road and bridge hazard claims are to be submitted, in writing, to the Office of Risk Management on the DOTD/ORM Report of Road Hazard Incident form. Forms can be obtained from the Office of Risk Management's Road and Bridge Hazard Claims Unit or on the ORM web site, www.doa.louisiana.gov/orm.

D. Claims are to be submitted, in writing, to the Office of Risk Management, P.O. Box 91106, Baton Rouge, LA 70821-9106.

E. If a loss is serious in nature, it is to be reported by telephone to the Office of Risk Management for review to determine if coverage is applicable.

F. Claims which are made against a state agency by a third party are to be submitted to the Office of Risk Management for review to determine if coverage is applicable.

G. All lawsuits, demands, notices, summons, or other legal documents pertaining to a claim against a state agency are to be forwarded immediately to the Office of Risk Management's Claim Office for further handling.

H. Any objects and/or products which may have caused, contributed to, or which are suspected of causing an accident are to be retained and preserved as evidence.

I. If a loss or a claim arises, the agency is not to assume any obligation or incur any expenses without authority from the Office of Risk Management.

J. It would be the responsibility of the district office of the Department of Transportation and Development to verify the following:

1. that the alleged accident occurred on a state maintained highway/road;

2. existence of the damage;

3. whether the state had knowledge of the defect prior to the alleged accident;

4. the existence of any contract which may exist between the state and any municipality, contractor or other party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of the Governor, Division of Administration, Office of Risk Management, LR 15:85 (February 1989), amended LR 31:67 (January 2005), LR 32:1441 (August 2006).

§721. Claims Unit Contacts

A. For further information on reporting a claim or requesting information regarding a specific claim, contact the Office of Risk Management, in writing, at P.O. Box 91106, Capitol Station, Baton Rouge, LA 70821-9106 or telephone the appropriate claims unit.

Unit	Contact the Following Telephone Number(s)
Claims-Administrative	(225) 219-0012 or (225) 219-0168
Property	(225) 342-8399
1. Buildings and Improvements. Contents and equipment, excluding Boiler and Machinery. 2. Boiler and Machinery 3. Bonds and Crime	
Transportation	(225) 342-8466
1. Auto Liability 2. Automobile Comprehensive and Collision 3. Aviation 4. Wet Marine	
General Liability-All Comprehensive General Liability	(225) 342-8463
Medical Malpractice	(225) 342-8442 (225) 219-0868
Workers' Compensation	(225) 342-7390 or (225) 342-8451 or (225) 342-8458 or (318) 487-5411
1. Statutory and Employer's Liability 2. Maritime Compensation	
Road and Bridge Hazards-All Road and Bridge Hazards	(225) 342-5441 or (225) 219-4846
Subrogation	(225) 342-8446

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 15:86 (February 1989), amended LR 31:67 (January 2005), LR 32:1441 (August 2006).

Chapter 9. Risk Analysis and Loss Prevention

§901. Risk Analysis and Loss Prevention

A. R.S. 39:1543 requires the development of a comprehensive loss prevention program, for implementation by all state agencies, including basic guidelines and standards of measurement.

B. In order to fully comply with this statute a comprehensive loss prevention plan has been developed, and the following are to be implemented by every state department, agency, board, or commission that employs 15 or more employees.

Any Other Loss Prevention Program—developed by the Office of Risk Management, Loss Prevention Unit in conjunction with the Interagency Advisory Council for the prevention and reduction in accident events that may cause injury, illness, or property damage.

Aviation Safety Program—program to provide a systematic method of screening, training, and accountability for employees and supervisors required to assign or operate state-owned aircraft in the scope of their employment.

Driver Safety Program—program to provide a systematic method of screening, training, and accountability for employees and supervisors required to assign or drive state-owned vehicles or personal vehicles in the course and scope of their employment.

Employee Training—training to establish a systematic method of training employees to perform the required tasks in a safe and efficient manner and to insure all employees receive periodic refresher training.

Equipment Management Program—written loss prevention maintenance program to include, but not limited to, a history of each piece of equipment, designate responsibility, schedule of when maintenance is to be performed, list of equipment to be maintained, how maintenance is to be performed.

First Aid—adoption of a first aid program which will provide a trained first aid person at each job site and shift. This policy covers all facilities and crews.

Hazard Control Program—program to establish a systematic method of recognizing, evaluating, and controlling hazards prior to them producing injury, illness, or property damage.

Housekeeping Program—program to provide a method for systematically inspecting and eliminating safety and fire hazards that result from uncontrolled sources. To establish clearly defined areas of responsibility for orderliness and cleanliness through each state-owned or operated grounds and facilities.

Inspections Program—a program to maintain a safe environment and control unsafe acts, roadway hazard inspection reports, and medical malpractice records.

Investigation Program—a program to thoroughly investigate and identify, as soon as possible, the actual causes and contributing factors of losses in an attempt to prevent recurrences.

Job Safety Analysis—a procedure to be used to review job methods and hazards that relate to the work environment. The job safety analysis should be performed on all tasks or processes that have a higher than normal rate of producing bodily injury or property damage.

Management Policy Statement—an expression of management, philosophies and goals toward safety.

Record Keeping—records to establish a procedure for the uniform development and maintenance of loss prevention and control documents to be retained for one year. This will include inspection reports, accident investigation reports, minutes of safety meetings, training records, boiler and machinery maintenance records, and/or conditions by regular and periodic facility equipment and roadway inspections.

Responsibility for Safety in an Organization—a written document to clearly define supervisory responsibilities at all levels.

Safety Meetings—meetings to be conducted by supervisors with employees on a quarterly basis, unless otherwise specified by ORM, to educate, inform, motivate and examine work practices for potentially unsafe acts that could produce bodily injury and provide a method to preclude recurrences.

Safety Rules—general instructions developed by agencies regarding the employees' responsibilities.

Water Vessel Operator Safety Program—program to provide a systematic method of screening, training, and accountability for employees and supervisors required to assign or operate state-owned water vessels in the scope of their employment.

C. The minimum requirements are in no way intended to require revisions of existing safety plans which meet or exceed these minimum requirements. However, these existing plans are subject to the Loss Prevention Unit for review and acceptance.

D. The Loss Prevention Unit will audit each department, agency, board, or commission to insure compliance of the development, implementation, and adherence to the program. Audits will be conducted once every three years with a re-certification review performed in subsequent years. The deadline for certification will be April 30 of each year for insurance premiums for the following fiscal year. Any agency, board or commission found to be in compliance with state law and loss prevention standards prescribed by the Office of Risk Management shall receive a credit to be applied to the agency's annual self-insured premium per line of insurance coverage, excluding the coverages for road hazards and medical malpractice, equal to 5 percent of the agency's total annual self-insured premium paid per line of coverage. An agency which has failed to receive certification after undergoing a loss prevention audit shall be liable for a penalty of 5 percent of the agency's total annual self-insured premium paid per line of coverage, excluding the coverages for road hazards and medical malpractice. Such compliance will be certified by major risk groups as follows:

1. workers compensation—regular;
2. workers compensation—maritime;
3. general liability;
4. auto liability and auto physical damage;
5. property and inland marine;
6. boiler and machinery;
7. bond and crime risk;
8. aviation;
9. marine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management,

Chapter 11. Law Enforcement Officers' and Firemen's Survivor Benefit Review Board
§1101. Survivors Benefits

A. Purpose

1. To establish an effective and efficient mechanism for fulfilling the provisions of R.S. 39:1533.A, 33:1981, 33:1947, and 33:2201.B.

2. To govern the submission, evaluation and determination of claims submitted pursuant to R.S. 33:1947, 33:2201, and 33:1981.

B. Application

1. The rules will apply to all claims arising from RS 33:1947, 33:2201, and 33:1981.

C. Definitions

Board—the Law Enforcement Officers and Firemen's Survivors Benefit Board.

Child—as defined in R.S. 33:1947.C.

Fireman—as defined in R.S. 33:1981.

Law Enforcement Officer—as defined in R.S. 33:2201.B.

Line of Duty—any activity performed in which a law enforcement officer suffers death as a result of:

a. an injury arising out of and in the course of the performance of his official duties; or

b. arising out of any activity while on or off duty, in his official enforcement capacity, involving the protection of life or property.

Qualifying Claim—those claims meeting the criteria of claims request documentation, and the meaning ascribed to line of duty.

Spouse—as defined in R.S. 33:1947.C.

D. Board Membership and Domicile

1. The board's official domicile will be located in Baton Rouge. All claims hearings, presentations etc. will be held in the board's official domicile. Claimant expenses related to claim preparation and presentation are not allowable for reimbursement. Board members serve on a gratuitous basis. The chairman of the board shall be on a rotation basis as follows: attorney general, legislative auditor, and state risk director. The term of each chairman is limited to two years. The attorney general's term shall begin effective September 19, 1989.

2. The board will be comprised of those individuals or their designees as stated in R.S. 33:1947.

E. Claims Requests

1. All claims shall be submitted to the chairman of Louisiana Law Enforcement and Firemen's Survivors Benefit Board through the Department of Justice-Attorney General.

2. All claim requests must include the following documentation:

a. notarized affidavit for decedent's date of employment, rank, duty assignment, routine work schedule, work responsibilities, brief statement outlining injuries;

b. copy of decedent's commission as police officer/fireman;

c. notarized affidavits from any witnesses to incident;

d. certified copy of investigative report, or uncertified copy accompanied by notarized affidavit of reporting investigative officer, which identifies copy of report as accurate reproduction of original report;

e. certified copy of decedent's death certificate and autopsy protocol report;

f. notarized affidavit from decedent's surviving spouse stating full their full name, address, date of marriage, and that they were not legally separated or divorced at time of death. Also, a certified copy of marriage license;

g. list of names and birth dates of each minor child born to or adopted by decedent, certified copies of birth certificates;

h. certified copy of letters of tutorship;

i. notarized affidavit of tutor or legal representative of surviving child stating child is unmarried and under the age of 18, or alternately, is unmarried, under the age of 23, and a student;

j. notarized affidavit of caretaker of surviving child which states the major child is physically and/or mentally handicapped, totally and permanently disabled, and solely dependent upon decedent for support. Also, copy of the major child's medical and /or psychological records; and

k. if decedent was not survived by a spouse, a notarized affidavit from parents which state that decedent was their child, the date and place of decedent's birth, and full name and address of each surviving parent. Also, a copy of decedent's birth certificate or other legal documents which indicate the name(s) of parent(s).

F. Procedures for Hearings

1. Upon receipt of a claim, the chairman will schedule the claim for board hearing within 60 days after all required documentation is received. Each claim shall be assigned a sequential number claim code which shall be utilized for official references.

2. The chairman shall notify the board members, claimant, and appointing authority of the claimant of the claim items up for consideration no later than 10 days prior to hearing.

3. At the hearing date described the board shall officially receive and act upon all claims received.

4. The board may, at its discretion, entertain additional oral presentations from outside parties regarding the claim.

5. The board shall have the following options with regards to the claim action:

a. approval of the qualifying claim;

b. denial of the claim;

c. deferral pending receipt of additional data.

6. The board shall inform the claimant, in writing, of its determination.

7. If approved, the board chairman shall certify to the commissioner of administration and request payment in accordance with R.S. 39:1533.

G. Appeals

1. Claimant may appeal within 60 days of being advised of the board's decision;

2. This appeal shall be filed in the 19th JDC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:1947, R.S. 33:1981, R.S. 33:2201, and R.S. 39:1533.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management,

Subpart 2. Worker's Compensation Fee Schedule

Chapter 25. Fees

§2501. Fee Schedule

A. The director, Office of Risk Management, Division of Administration, pursuant to notice of intent published December 20, 1987, and pursuant to provisions of R.S. 23:1034.2 and R.S. 39:1527 et seq., adopted effective April 1, 1988 a fee schedule for medical, surgical, and hospital services due under the Louisiana Worker's Compensation Act, R.S. 23:1021-1361, and which arise in the state self-insured worker's compensation cases. Effective, July 1, 1994, the Office of Risk Management began utilizing the Medical Fee Schedule promulgated by the Office of Workers' Compensation in accordance with R.S. 23:1034.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527 et seq.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, Office of Risk Management, LR 14:148 (March 1988), amended LR 16:401 (May 1990), LR 31:69 (January 2005), LR 32:1444 (August 2006).

J.S. "Bud" Thompson, Jr.
State Risk Director

0608#001

RULE

Office of the Governor

**Board of River Port Pilot Commissioners and Examiners
Calcasieu River Waterway**

Pilot Apprentice Applicant Requirements,
Pilotage Certification, Charges and Fees
(LAC 46:LXX.9107, 9111 and 9117)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of River Port Pilot Commissioners and Examiners Calcasieu River Waterway hereby adopts rules regarding LAC 46:LXX.9107, Minimum Requirements, Applicants, Examination, Appointments, §9111, Pilotage Certification, and §9117, Pilot Charges and Fees. The proposed Rule amendments have no known impact on family formation, stability, or autonomy as described in R.S. 49:972.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXX. River Pilots

**Subpart 10. Board of River Port Pilot Commissioners
and Examiners**

**§9107. Minimum Requirements, Applicants,
Examination, Appointments**

A. ...

B. Candidates seeking to participate in a pilot apprentice training program shall hold a U.S. Coast Guard issued license authorizing service as master, steam or motor vessels of at least 1600 gross tons upon oceans or near coastal and be reasonably expected to be able to eventually comply with federal regulatory requirements specified at 46 CFR Subpart G; Professional Requirements for Pilot Licenses which are considered by the board to be minimum requirements for commissioning pilots under the board's jurisdiction. These

requirements include time-in-service, route familiarization, examination, physical requirements, tonnage service requirements and capability to acquire and maintain knowledge of waters to be navigated. Prospective candidates of good character who meet the aforementioned requirements may submit applications evidencing these requirements to the Apprentice Pilot Review Committee, 4902 Isle Road Lake Charles, LA 70605. A copy of the application shall also be submitted to the Board of Commissioners and Examiners, c/o Port of Lake Charles, P.O. Box 3753, Lake Charles, LA 70602. Applications should be accompanied by a personal résumé, photograph, birth certificate, three letters of recommendation, health profile conducted by a recognized health professional evidencing probable ability to comply with 46 CFR 10.205(d) and a U.S. Coast Guard Information Release Form signed and notarized, in any format, to authorize personnel involved in the selection process to investigate and/or obtain applicant's records from the U.S. Coast Guard or from any other person or entity deemed appropriate, including but not limited to licenses, casualty involvement, or any disciplinary information. Applications will be kept on file until an opening for an apprentice pilot is anticipated, or a maximum of two years, unless updated. When the association anticipates openings for apprentice pilots, the Apprentice Pilot Review Committee will review all current applications and contact best-qualified selected applicants to appear for interviews. The Apprentice Pilot Review Committee, subsequent to reviewing applications and interviewing applicants, will present their findings and recommendations to association members for their vote on apprentice candidate acceptance. The board shall provide oversight and final approval over the pilot candidate application and selection process and shall approve and make recommendations to the governor for subsequently awarding pilot commissions.

C. - H.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1072.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, LR 28:1478 (June 2002), amended LR 32:1444 (August 2006).

§9111. Pilotage Certification

A. Commissioned pilots shall comply with all requirements to maintain current their Louisiana State Commission and such other certifications and continuing educational classes, training, or programs as determined necessary by the board.

B. Commencing January 1, 2006, every commissioned pilot in order to maintain a valid pilot's commission must attend 40 hours of continuing professional education classes and programs every five years. In addition each commissioned pilot must attend a continuing ship simulator-training program every five years. Classes, programs, and simulator-training received prior to January 1, 2006 shall not be counted toward this requirement.

C. The professional education classes and programs required by the board include, but are not limited to, the following:

1. electronic ship simulation training;
2. small scale ship simulation training;
3. ARPA training (Automatic Radar Plotting Aid);

4. emergency ship handling training;
5. bridge resource management training for pilots;
6. radar certificate renewal;
7. tractor tug training;
8. portable pilot system lap top computer training;
9. any other class, course or program that the board deems appropriate.

D. Any required continuing professional education class, training or program or required ship simulator-training program shall be a class or program which has been appropriately certified, as determined by the board, and is one generally utilized and participated in by other commissioned pilots.

E. On or before January 10 of each year, commencing January 2007, each pilot shall submit to the board evidence of his attendance and completion of the above required continuing education classes and programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1072.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, LR 28:1479 (June 2002), amended LR 32:1444 (August 2006).

§9117. Pilot Charges and Fees

A. Pilotage charges and rates shall be fixed, without board involvement, in accordance with established procedures of the Board of Louisiana River Pilot Review and Oversight, pursuant to R.S. 34:1121 et seq., as may be necessary following disputes.

AUTHORITY NOTE: Promulgated in accordance with R. S. 34:1072.

HISTORICAL NOTE: Promulgated by the Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, L.R. 28:1481 (June 2002), amended LR 32:1445 (August 2006).

Brett Palmer
Chairman

0608#049

RULE

Office of the Governor Real Estate Commission

Reorganization of the Real Estate Commission
(LAC 46:LXVII.Chapters 3-37, 53, and 55)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950, et seq., the Louisiana Real Estate Commission has amended LAC 46:LXVII, Real Estate, Chapters 3-37, 53 and 55. The purpose of the amendments is to (1) provide an organized, concise, clear-cut body of information that is free of obscurity and ambiguity, (2) better describe the licensing, certification, and registration processes administered by the agency, and (3) remove arbitrary time constraints that serve to (a) disqualify otherwise qualified applicants and (b) nullify certain education hours and test scores.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXVII. Real Estate

Subpart 1. Real Estate

Chapter 3. Initial License Applications

§301. Forms

A. Initial license applications shall be in such form and detail as prescribed by the commission and shall be accompanied by the fees prescribed in R.S. 37:1443.

B. Initial license applications shall be classed in the following categories:

1. Salesperson;
2. Broker—Individual;
3. Broker—Corporation, Partnership, Limited Liability Company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:37 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1445 (August 2006).

§303. Sponsorship

A. Applicants for a salesperson license shall be sponsored by an active licensed broker and shall submit the Affidavit of Sponsorship Form (Part B) prescribed by the commission as proof of sponsorship.

B. The Affidavit of Sponsorship Form (Part B) may be submitted with the initial license application, but no later than 90 days after passing the license examination.

C. If the Affidavit of Sponsorship Form (Part B) is not received within the prescribed 90 days, an inactive license shall be issued to the salesperson applicant who shall then be subject to the Louisiana Real Estate License Law and the commission rules and regulations regarding inactive licensees. An active license shall not be issued until such time as the Transfer to Active Status Form prescribed by the commission is received.

D. Applicants for a broker license who elect to be sponsored by an active licensed broker shall be exclusively affiliated as an associate broker of the sponsoring broker.

E. Active licensed brokers who elect to sponsor an applicant for a real estate license shall be subject to the duties and penalties prescribed for sponsoring brokers in the Louisiana Real Estate License Law and commission rules and regulations and shall bear the responsibility for the license activity of any sponsored licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:37 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1445 (August 2006).

§305. Documentation

A. All initial license applications for an individual real estate broker or salesperson license shall be submitted with the following documentation:

1. proof of completion of the real estate instruction hours prescribed by R.S. 37:1437:

a. real estate pre-license instruction hours obtained in other jurisdictions may be accepted for full or partial credit at the discretion of the commission and shall be based on the applicability of the subject matter to current pre-license education requirements;

b. real estate pre-license instruction hours obtained from nationally recognized institutes may be accepted for full or partial credit at the discretion of the commission and shall be based on the applicability of the subject matter to current pre-license education requirements;

c. every applicant for a Louisiana real estate license shall provide proof of at least thirty classroom hours of pre-license instruction that includes the Louisiana Real Estate License Law, rules and regulations of the commission, Louisiana Civil Law, as it relates to real estate, and any other instruction hours the commission deems necessary and appropriate.

2. license history verification from each jurisdiction in which the applicant has held or currently holds a real estate license;

3. verification of passing an equivalent real estate license examination, if the applicant is currently or was previously a resident licensee in another jurisdiction;

4. copy of any trade name or trademark registration issued by the secretary of state for use by the individual broker or salesperson applicant in real estate license activities.

B. Every application for a corporation, partnership or limited liability company broker license shall be submitted by the designated qualifying broker with the following documentation:

1. copy of the resolution or other document executed by a principal of the corporation, partnership or limited liability company designating an individual real estate broker as the qualifying broker;

2. copy of the registration certificate issued by the secretary of state;

3. copy of any trade name or trademark registration issued by the secretary of state for use by the corporation, partnership or limited liability company in real estate license activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 32:1445 (August 2006).

Chapter 5. Examinations

§501. Authorization

A. The commission shall issue an examination authorization to each eligible applicant. The examination authorization shall be valid for one examination and shall expire ninety days after the date it is issued.

B. It shall be the responsibility of each applicant that has received an examination authorization from the commission to contact the designated national testing service for an appointment to take the examination.

C. An applicant whose examination authorization expires prior to the applicant taking the examination shall receive a new examination authorization upon submission of a written request and the processing fee prescribed in R.S. 37:1443.

D. The commission shall provide each applicant with a license information bulletin that contains the examination procedures established by the commission and the

designated testing service. Failure to comply with the procedures contained in the license information bulletin may result in disqualification from the examination and the forfeiture of all fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:38 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1446 (August 2006).

§503. Disqualification of Applicants

A. Any applicant who copies or communicates, or attempts to copy or communicate examination content shall be considered in violation of examination security, which shall be grounds for denial of a license and the forfeiture of all fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:38 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1446 (August 2006).

§505. Prohibited Activities

A. Licensees, certificate holders, registrants, school owners or school directors, and persons employed by or associated with a licensee, certificate holder, registrant, school owner or school director, shall not obtain or attempt to obtain by deceptive or fraudulent means any copyrighted test questions and/or confidential test material used by or belonging to any national testing service currently or previously contracted with the commission. Violations of this Section shall be cause for censure, suspension, or revocation of a license, certificate, or registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:38 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1446 (August 2006).

§507. Failure of Examination

A. Any applicant who fails an examination may apply to retake the examination by submitting a copy of the fail notice and a new examination processing fee to the commission within 90 days of the failed examination. Failure to reapply for an examination within the 90 day period shall result in closure of the applicant's file and forfeiture of all fees. Thereafter, the applicant shall be required to submit a new application and remit all prescribed fees to be eligible for the licensing examination.

B. An applicant who does not pass both portions of the examination shall be required to retake the failed portion only; however, the score on the passed portion shall remain valid for a period of one year, after which time the applicant shall be required to retake it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:38 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1446 (August 2006).

§509. Partial Failure of Examination

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:39 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:1446 (August 2006).

§511. Examination Requirement for Out-of-State Applicants

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:39 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:1447 (August 2006).

Chapter 7. Fees

§701. Duration of Fees

A. Fees for licenses, certificates, and registrations shall cover a period of one calendar year and shall not be prorated.

B. Except as otherwise provided in these rules and regulations all fees submitted to the commission are non-refundable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:39 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1447 (August 2006).

§703. Duration of Fees for Licenses, Certificates and Registrations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:39 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:1447 (August 2006).

§705. Returned Checks

A. Payment of any fee with a check that is returned by a financial institution, wherein the reason for not paying the check is not a fault of the financial institution, shall be grounds for cancellation of the transaction for which the fee was submitted and/or the suspension or revocation of a license, registration or certificate.

B. Persons issuing checks that are returned to the commission by a financial institution for any reason shall be notified by certified mail at the most current address of record. Within 10 days from the date of the notification, the person issuing the check shall remit a certified check, cashier's check, or money order, to the commission in the amount of the returned check, plus the processing fee prescribed in R.S. 37:1443.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:39 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1447 (August 2006).

Chapter 9. Renewal of Licenses, Registrations and Certificates

§901. Timely Submission of Renewal Applications

A. The timely submission of a renewal application and payment of the required fees shall be the responsibility of the individual licensee, registrant, or certificate holder.

B. The renewal license of a salesperson or associate broker shall not be issued before the license of the sponsoring broker is renewed.

C. A licensee, registrant, or certificate holder who fails to renew by December 31 is prohibited beginning January 1 from engaging in any activities requiring a license, registration, or certificate until such time as the license, registration, or certificate is renewed.

D. A licensee whose sponsoring broker fails to renew by December 31 is prohibited beginning January 1 from engaging in any activities requiring a license until such time as the sponsoring broker has renewed or the licensee transfers to a new sponsoring broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:39 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1447 (August 2006).

§903. Non-Renewal of Real Estate Licenses

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:39 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:1447 (August 2006).

§905. Renewal Application

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:39 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:1447 (August 2006).

§907. Education Hours Required for Renewal

A. Any active licensee who fails to comply with the applicable post-license or continuing education requirement prescribed in R.S. 37:1437 shall not be issued a renewal license until such time as the requirement is met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:40 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1447 (August 2006).

Chapter 11. Delinquent Renewal

§1101. Application for Delinquent Renewal

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:40 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:1447 (August 2006).

§1103. Loss of Renewal Eligibility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:40 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:1447 (August 2006).

Chapter 13. Broker Affiliation

§1301. Associate Broker

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:40 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:1448 (August 2006).

§1303. Notification by Broker Applicants

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:40 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:1448 (August 2006).

§1305. Notification by Individual Real Estate Broker

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:40 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:1448 (August 2006).

§1307. Escrow Accounts Prohibited

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:40 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:1448 (August 2006).

Chapter 15. Transfers and Terminations

§1501. Forms

A. A request to terminate sponsorship of a licensee or to transfer a licensee to a new broker shall be submitted on forms prescribed by the commission and shall be accompanied by the fees prescribed in R.S. 37:1443.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:40 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1448 (August 2006).

§1503. Fee Exemptions

A. A request for license transfer that is submitted within sixty days of any of the following circumstances shall be exempt from the transfer fee or delinquent renewal fee prescribed in R.S. 37:1443:

1. the sponsoring broker has died;
2. the sponsoring broker has failed to renew his license;
3. the license of the sponsoring broker has been suspended or revoked;
4. the license of the sponsoring broker has been transferred to the inactive status;
5. the sponsoring broker elects to discontinue the sponsorship of a licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:40 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1448 (August 2006).

§1505. Purchase or Acquisition of Agencies

A. When a licensed agency purchases or otherwise acquires another licensed agency, the sponsoring or qualifying broker of the acquiring agency shall notify the commission in writing no later than the second working day following the date of acquisition.

B. The notice shall specify the date of acquisition and shall request a transfer to the acquiring agency for all licensees sponsored by the acquired agency.

1. The sponsoring broker for the acquired agency shall return the licenses of all sponsored licensees to the commission no later than the second working day following the date of acquisition.

2. The commission shall issue new licenses to the acquiring agency for each licensee sponsored by the acquired agency. The effective date of transfer to the acquiring agency shall be the date of acquisition specified in the notification.

C. The notification of acquisition shall certify continuous errors and omissions insurance coverage for all licensees that are transferred to the acquiring agency. If the transfer of licensees necessitates payment to the commission for coverage under the commission group errors and omission insurance policy, a listing of all licensees for which coverage is requested and all applicable fees shall accompany the notification.

D. The sponsoring broker of the acquiring agency shall give written notice to all licensees transferred to the acquiring agency within two working days following the date of acquisition.

E. Any licensee of the acquired agency who elects to transfer from the acquiring agency shall do so in accordance with the provisions of R.S. 37:1441.A and §1501.A of this Chapter.

F. Any licensee of the acquired agency who is terminated by the acquiring agency shall be transferred in accordance with the provisions of R.S. 37:1441.A and §§1501.A and 1503.A.5 of this Chapter.

G. The acquiring agency shall provide a written report to the commission on the status of all former licensees of the acquired agency within 15 days following the acquisition.

1. The notification shall include a listing by category that identifies:

- a. each licensee that requested the return of their license to the commission;
- b. each licensee that is being terminated by the acquiring agency;
- c. each licensee that will remain with the acquiring agency.

2. The notification shall include the following documentation and fees:

- a. the license of each licensee that will not remain with the acquiring agency;
- b. copies of the written notification to and/or from each licensee as required by §1505.D of this Chapter;
- c. payment of the transfer fee prescribed in R.S. 37:1443 for each licensee who was sponsored by the acquired agency and who will remain with the acquiring agency;
- d. payment of the errors and omissions insurance fee prescribed in §1505.D of this Chapter, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:40 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1448 (August 2006).

§1507. Change of Licensing Status

A. A request to transfer a license from active to inactive status or from inactive to active status shall be submitted on forms prescribed by the commission and shall be accompanied by the fees prescribed in R.S. 37:1443, unless exempt as prescribed in §1503 of this Chapter.

B. Corporate, partnership and limited liability company broker licenses shall remain in the active license status.

C. An individual broker that elects to become exclusively affiliated with a sponsoring broker shall submit a request to transfer on forms prescribed by the commission, which shall be accompanied by the fees prescribed in R.S. 37:1443.

D. A licensee may transfer to inactive status without completing the 30-hour post-license education requirement; however, the commission shall not transfer the licensee to active status until such time that the post-license education requirement is complete.

E. The post-license education hours may be used to satisfy the continuing education hours, or a portion of the continuing education hours required for active status as follows:

1. one to three years of inactive status—30 hours of post-license education in lieu of the required 20 hours of continuing education. Any licensee remaining in the inactive status for more than one year shall also complete a four-hour continuing education course covering the Louisiana Real Estate License Law and commission rules and regulations within one year prior to the date of the transfer to active status;

2. three to five years of inactive status—30 hours of post-license education and at least 10 hours of continuing education. Any licensee remaining in the inactive status for more than one year shall also complete a four-hour continuing education course covering the Louisiana Real Estate License Law and commission rules and regulations within one year prior to the date of the transfer to active status;

3. more than five years of inactive status—30 hours of post-license education and at least 50 hours of continuing education. Any licensee remaining in the inactive status for more than one year shall also complete a four-hour continuing education course covering the Louisiana Real Estate License Law and commission rules and regulations within one year prior to the date of the transfer to active status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:41 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:485 (March 2002), amended LR 32:1449 (August 2006).

Chapter 17. Termination Responsibilities

§1701. Relinquishment of Business Related Property and Data

A. A licensee whose business relationship with a sponsoring broker has been terminated for any reason shall immediately relinquish all business related property to the sponsoring broker, including:

1. the keys to any and all properties listed with the broker;

2. any documents that in any way pertain to real estate transactions wherein a broker or licensees sponsored by the broker has appeared in a licensing capacity. This does not preclude the licensee from retaining copies of such documents.

B. A sponsoring broker who alleges the failure of a former sponsored licensee to comply with §1701.A of this Chapter shall submit a signed written report of such failure to the commission. The signed report shall constitute a written complaint filed with the commission and shall list the specific business related data and property that was not relinquished to the sponsoring broker. The sponsoring broker shall provide a copy of the report to the licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:41 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1449 (August 2006).

§1703. Financial Obligations; Commissions and Dues; Disputes

A. The commission shall not intervene or become otherwise involved in employment disputes or disputes pertaining to financial obligations that are the result of a business relationship between a broker and a sponsored licensee or a timeshare developer and timeshare sales registrant, including the payment of commissions and dues to professional organizations. Such disputes shall be settled by the respective parties or by a court of competent jurisdiction.

B. Employment disputes or disputes over financial obligations, commissions, or dues shall not be cause for the failure of a sponsoring broker to return a license or registration to the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:41 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1449 (August 2006).

§1705. Personal Obligations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:42 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:1449 (August 2006).

§1707. Report of Alleged Failure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:42 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:1449 (August 2006).

Chapter 19. Names on Licenses, Registrations, and Certificates; Trade Names

§1901. Names on Licenses, Registrations and Certificates

A. All licenses, registrations and certificates issued by the commission shall be issued in the name of the legal entity of the applicant.

1. Licenses, registrations and certificates issued to individual real estate brokers, real estate salespersons, timeshare registrants, and real estate school instructors shall be issued in the name of the individual person.

2. Licenses, registrations and certificates issued to a corporation, partnership or limited liability company for any purpose shall be issued in the identical name as registered with the secretary of state. A license, registration or certificate shall not be issued to any corporation, partnership, or limited liability company not registered with the secretary of state.

3. Names on licenses, registrations and certificates issued by the commission shall not include a trade name unless the trade name is registered with the secretary of state and a copy of the registration is on file at the commission.

4. The name of a licensee whose real estate license has been revoked by the commission shall not appear on any license in a manner that represents, suggests, or implies that the former licensee is licensed by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:42 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1450 (August 2006).

§1903. Trade Names

A. Names on licenses, registrations and certificates issued by the commission shall not include a trade name unless the trade name is registered with the secretary of state and a copy of the registration is on file at the commission.

B. Any name or trade name used by a licensee, registrant or certificate holder in any manner shall be a clearly identifiable entity that can be distinguished from that of another licensee, registrant or certificate holder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:42 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:830 (April 2002), amended LR 32:1450 (August 2006).

§1905. Symbols and Trademarks

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:42 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1450 (August 2006).

Chapter 21. Concurrent Licenses and Registrations

§2101. Broker or Salesperson License; Timeshare Interest Salesperson Registration

A. A broker may be concurrently licensed as an individual and as the designated qualifying broker of one or more corporations, limited liability companies, and/or partnerships.

B. Associate brokers and salespersons shall not be sponsored by more than one sponsoring broker.

C. A real estate license and a timeshare interest salesperson registration shall not be issued concurrently to any person. A broker shall not concurrently conduct real estate activities as an individual real estate broker and as an associate broker exclusively affiliated with another real estate broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:42 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1450 (August 2006).

Chapter 23. Branch Offices

§2301. Branch Office License; Supervision; Duties and Penalties

A. An office established by a broker or sponsored licensee for conducting any real estate license activity at a separate address from the registered address of the broker, wherein the name and telephone number of the broker or agency is advertised in any way, shall be considered a branch office and shall be licensed as such.

B. An application for a branch office shall be submitted on the forms prescribed by the commission and accompanied by the fees prescribed in R.S. 37:1443.

C. Every branch office shall be under the direct supervision of a licensed individual broker who shall be designated in writing as the branch office manager. A copy of the designation shall be submitted to the commission within five days following the date of the original designation or any changes thereto.

D. A broker designated as a branch office manager shall be subject to the duties and penalties prescribed for sponsoring brokers in R.S. 37:1430 et seq.; however, this shall not relieve the sponsoring broker of the ultimate responsibility for the branch office operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:42 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:829 (April 2002), amended LR 32:1450 (August 2006).

Chapter 25. Advertising; Disclosures; Representations

§2501. Disclosures and Representations

A. Agreements between brokers to allow property data to be shared and disseminated to clients, customers, or prospective clients, including but not limited to web-based or email multiple listing service property data, IDX or VOW property data does not constitute advertising or advertisement as to the property data shared; however,

§2515 of this Chapter, shall apply to the area of such electronic communication that displays the property data on websites or email communications.

B. All advertising, disclosures, or representations by any licensee shall include the phone numbers and the identity of the sponsoring broker or firm through the use of the identical name under which the sponsoring broker or firm is licensed or a registered trade name that is a clearly identifiable entity which will distinguish the sponsoring broker or firm from other licensees, registrants, or certificate holders.

C. Any trade name used by a licensee, registrant or certificate holder in advertising shall be a trade name that is a clearly identifiable entity that will distinguish itself from other licensees, registrants or certificate holders.

D. All advertising of a licensed individual, partnership, firm, or corporate broker shall include their licensed business name, which for the purpose of these rules shall mean the name in which that individual, partnership, firm or corporation is on record with the commission as doing business as a real estate broker or, in the case of a trade name, that which is registered with the secretary of state and on record with the commission.

E. A salesperson or associate broker is prohibited from advertising under only his or her name.

F. All advertising by a salesperson or associate broker must be under the direct supervision of his or her sponsoring broker.

G. In all advertising, the salesperson or associate broker must include the name and telephone number of his or her broker as defined in this Section. The broker's name and telephone number must be conspicuous, discernible, and easily identifiable by the public.

H. If allowed by the sponsoring broker, the salesperson or associate broker may include in the advertisement:

1. the salesperson's or associate broker's personal logo or insignia, which cannot be construed as that of a company name;

2. the salesperson's or associate broker's contact information;

3. a group or team name, as long as the name(s) of the salesperson(s) and/or associate broker(s) are included near the team reference and cannot be construed as that of a company name; and

4. a slogan that may not be construed as that of a company name.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:42 (January 2000), amended by the Office of the Governor, LR 32:1450 (August 2006).

§2513. Appraisals

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:43 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:1451 (August 2006).

Chapter 27. Escrow and Trust Accounts

§2701. Resident Broker Requirements

A. A resident broker, including corporations, partnerships and limited liability companies, engaged in the

sale of real estate on behalf of clients shall open and maintain a sales escrow checking account in a financial institution in the state of Louisiana. All sales escrow accounts shall be titled in the identical wording as stated on the broker's license and the wording "Sales Escrow Account" shall be imprinted on all checks and bank statements issued in connection with this account. Except as otherwise provided in this Chapter, all funds received by a broker in connection with the sale of real estate shall be deposited in this account.

B. A resident broker, including corporations, partnerships and limited liability companies, engaged in the collection of rental payments on behalf of clients shall open and maintain a rental trust checking account in a financial institution in the state of Louisiana. All rental trust accounts shall be titled in the identical wording as stated on the broker's license and the wording "Rental Trust Account" shall be imprinted on all checks and bank statements issued in connection with this account. Except as otherwise provided in this Chapter, all funds collected as rental payments from or on behalf of clients shall be deposited into this account.

C. A resident broker, including corporations, partnerships and limited liability companies, engaged in property management activities on behalf of clients shall open a security deposit trust checking account in a financial institution in the state of Louisiana. All security deposit trust accounts shall be titled in the identical wording as stated on the broker's license and the wording "Security Deposit Trust Account" shall be imprinted on all checks and bank statements issued in connection with this account. Except as otherwise provided in this Chapter, all funds collected as rental security deposits from or on behalf of clients shall be deposited into this account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1451 (August 2006).

§2703. Non-Resident Broker Requirements

A. Non-resident brokers shall be subject to the provisions of §2701 of this Chapter.

B. The sales escrow checking accounts, rental trust checking accounts and security deposit trust checking accounts of a non-resident broker may be opened and maintained in a Louisiana financial institution and/or a financial institution located in the resident state of the broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1451 (August 2006).

§2705. Change in License Status; Associate Broker and Inactive Broker Requirements

A. Associate brokers are prohibited from opening and maintaining a sales escrow checking account, rental trust checking account, or security deposit trust checking account. All funds received by an associate broker in any real estate transaction shall be placed in the custody of the sponsoring broker.

B. An associate broker previously licensed as an individual broker or an active broker transferring to inactive status:

1. shall maintain all sales escrow checking accounts, rental trust checking accounts, or security deposit trust checking accounts for the limited and specific purpose of completing pending transactions and disbursing all deposits contained therein;

2. shall not deposit additional funds in sales escrow checking accounts, rental trust checking accounts, or security deposit trust checking accounts as of the effective date of affiliation with a sponsoring broker or transfer to inactive status;

3. shall have five working days from the date of affiliation with a sponsoring broker or transfer to inactive status to notify the commission in writing of the amount of funds in each escrow or trust account and the approximate date that each account will be closed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1451 (August 2006).

§2707. Branch Office Accounts

A. A broker may open additional sales escrow checking accounts, rental trust checking accounts, and security deposit trust checking accounts to accommodate business transacted out of a branch office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), amended by the Office of the Governor, Louisiana Real Estate Commission, LR 32:1452 (August 2006).

§2708. Signatory Rights on Checking Accounts

A. An individual real estate broker shall be an authorized signatory on each sales escrow checking account, rental trust checking account, or security deposit trust checking account and shall be responsible for the proper maintenance and disbursement of any funds contained therein. The addition of sponsored licensees and/or employees of the broker as signatories on the accounts shall not relieve the individual real estate broker of this responsibility.

B. The qualifying broker of a licensed corporation, partnership or limited liability company shall be an authorized signatory on sales escrow checking accounts, rental trust checking accounts and security deposit trust checking accounts maintained by the licensed entity and shall be responsible for the proper maintenance and disbursement of any funds contained therein. The addition of sponsored licensees, principals and/or employees of the licensed entity as signatories on the accounts shall not relieve the qualifying broker of this responsibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 32:1452 (August 2006).

§2709. Additional Accounts

A. Where the interest of the principal parties to a transaction or series of transactions would be served thereby, and with the prior written consent of the principal parties, a broker or non-resident broker may open an additional sales escrow checking account, rental trust checking account or

security deposit trust checking account, as prescribed in §§2701 and 2703 of this Chapter, and shall deposit therein all funds received in trust on behalf of the parties to the transaction or series of transactions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1452 (August 2006).

§2711. Non-Interest Bearing Checking Accounts

A. Every sales escrow checking account, rental trust checking account or security deposit trust checking account shall be opened as a non-interest bearing checking account unless all parties having an interest in the funds to be deposited therein have agreed otherwise in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1452 (August 2006).

§2713. Personal Funds in Escrow and Trust Checking Accounts

A. A sum not to exceed \$2,500 may be kept in each sales escrow checking account, rental trust checking account, and security deposit trust checking account, which sum shall be specifically identified and deposited to cover bank service charges relating to the accounts.

B. A broker engaged in property management activities may keep funds in excess of \$2,500 in a rental trust checking account for the temporary, limited, and specific purpose of enabling the broker to satisfy financial obligations for or on behalf of clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1452 (August 2006).

§2715. Withdrawal

A. Funds deposited into a sales escrow checking account, rental trust checking account, or security deposit trust checking account shall not be withdrawn for any purposes except:

1. upon the mutual written consent of all parties having an interest in the funds;
2. upon commission order;
3. upon court order;
4. to deposit funds into the registry of the court in a concursus proceeding;
5. to deposit funds with the commission pursuant to Chapter 29;
6. to disburse funds upon a reasonable interpretation of the contract that authorizes the broker to hold such funds, provided that the disbursement is not made until 10 days after the broker has notified all parties and licensees in writing;
7. to return the funds to a buyer at the time of closing;
8. to cover the payment of service charges on sales escrow checking accounts, rental trust checking accounts, and security deposit trust checking accounts;
9. upon approval by the commission in connection with the sale or acquisition of a licensed entity;

10. to comply with the provisions of R.S. 9:3251 or any other state or federal statute governing the transfer of rents, security deposits or other escrow funds.

B. Deposits shall be disbursed within 30 days of an agreement between the principles in a real estate transaction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1452 (August 2006).

§2717. Deposits

A. Funds received in a real estate sales, lease or management transaction shall be deposited in the appropriate sales escrow checking account, rental trust checking account or security deposit trust checking account of the listing or managing broker unless all parties having an interest in the funds have agreed otherwise in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:45 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1453 (August 2006).

§2719. Account Closing

A. No sales escrow checking account, rental trust checking account, or security deposit trust checking account may be closed until such time as all deposits therein have been properly disbursed.

B. Bankruptcy and/or the revocation, suspension, or lapse of a broker license for any reason shall not be cause to close or discontinue maintenance of any sales escrow checking account, rental trust checking account, or security deposit trust checking account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:45 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1453 (August 2006).

§2721. Transfer of Trust Funds on Sale or

Acquisition of Agency

A. When a licensed agency is sold or otherwise acquired by another licensed agency the sponsoring broker of the acquiring agency shall notify the commission in writing of the acquisition and the anticipated date of the transfer of trust funds. The notice shall specify the name of the acquired agency and account numbers of the sales escrow checking accounts, rental trust checking accounts, or security deposit trust checking accounts from which the funds will be transferred and the account numbers of the accounts into which the funds will be deposited.

B. A letter requesting approval to transfer the funds shall be jointly signed by the sponsoring brokers of the acquired agency and the acquiring agency and shall accompany the notification to the commission.

C. The transfer of funds shall not occur without written approval from the commission, as prescribed in §2715.A.9 of this Chapter.

D. Within five working days following the transfer of funds a letter jointly signed by the sponsoring brokers of the acquired agency and the acquiring agency shall be forwarded to the commission certifying that all trust funds have been transferred. The letter shall include the following:

1. certification that all sales escrow checking account, rental trust checking account, and security deposit trust checking account funds have been transferred to and received by the acquiring agency;

2. certification that supporting documents for all trust funds have been delivered to and received by the acquiring agency;

3. a listing of all sales escrow checking accounts, rental trust checking accounts, or security deposit trust checking accounts from which a transfer was made and the amount of funds transferred from each account;

4. a listing of all sales escrow checking accounts, rental trust checking accounts, and security deposit trust checking accounts into which funds were deposited and the amount of funds deposited into each account.

E. Within 10 days following the transfer of funds, the sponsoring broker of the acquired agency shall close the escrow accounts and trust accounts from which the funds were transferred and shall advise the commission in writing when such action has been completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:45 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1453 (August 2006).

§2723. Deposits

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:45 (January 2000); amended by the Office of the Governor, Real Estate Commission, LR 32:1453 (August 2006).

§2725. Account Closing

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:45 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:1453 (August 2006).

§2727. Maintaining Accounts

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:45 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:1453 (August 2006).

§2729. Corporations, Partnerships and Limited Liability Companies

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:45 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:1453 (August 2006).

§2731. Transfer of Trust Funds on Sale or Acquisition of Agency

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:46 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:1453 (August 2006).

§2733. Change of Licensing Status

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:46 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:1454 (August 2006).

Chapter 29. Disbursement of Escrow Deposits

§2901. Escrow Disputes

A. When a dispute exists in a real estate transaction regarding the ownership or entitlement to funds held in a sales escrow checking account, the broker holding the funds shall send written notice to all parties and licensees involved in the transaction. Within 90 days of the scheduled closing date or knowledge that a dispute exists, whichever occurs first, the broker shall do one of the following:

1. disburse the funds upon the written and mutual consent of all of the parties involved;
2. disburse the funds upon a reasonable interpretation of the contract that authorizes the broker to hold the funds. Disbursement may not occur until 10 days after the broker has sent written notice to all parties and licensees;
3. place the funds into the registry of any court of competent jurisdiction and proper venue through a concursus proceeding;
4. place the funds, including original promissory notes, with the Louisiana Real Estate Commission, with a request for an escrow disbursement order. This request shall include the names and last known address of the parties to the transaction, a copy of the purchase agreement, all forms required by the commission, and copies of any other documents relative to the dispute. The licensees and sponsoring brokers involved in the transaction shall appear when the dispute is brought before the commission;
5. disburse the funds upon the order of a court of competent jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1454 (August 2006).

§2903. Escrow Disbursement Order

A. Funds submitted to the commission with a request for an escrow disbursement order shall be immediately deposited in an interest bearing escrow checking account pending final disposition.

B. At the discretion of the commission, the following action may be taken:

1. the commission may order an investigation;
2. the commission may call an adjudicatory hearing;
3. the commission may place the funds into the registry of any court of competent jurisdiction and proper venue through a concursus proceeding;
4. the commission may issue an escrow disbursement order providing for the disposition and allocation of disputed funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1454 (August 2006).

Chapter 31. Change of Address or Telephone Number; Website Address

§3101. Reporting Change of Address or Telephone Number; Website Address

A. The commission shall be notified in writing within 10 days of any changes in the business address and/or telephone number, including any website address, or residence address and/or telephone number of a licensee, certificate holder, or registrant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1454 (August 2006).

Chapter 33. Compensation

§3301. Full Knowledge

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:1454 (August 2006).

Chapter 35. Disclosure by Licensee

§3501. Licensee as Principal in a Real Estate Transaction

A. The license status of a principal in a real estate transaction, whether individually or through an entity in which an interest is held by the licensee, shall be disclosed in writing to all other principals in the real estate transaction prior to entering into any real estate contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1454 (August 2006).

Chapter 37. Agency Disclosure

§3703. Agency Disclosure

A. Licensees shall provide the agency disclosure informational pamphlet or the agency disclosure form to all parties to a real estate transaction involving the sale or lease of real property.

B. Licensees are responsible for ensuring that the pamphlets and forms are the most current version prescribed by the commission and that reproductions of the pamphlet and form contain the identical language prescribed by the commission.

C. Licensees will provide the agency disclosure informational pamphlet or the agency disclosure form to prospective sellers/lessors and buyers/lessees at the time of the first face-to-face contact when performing any real estate related activity involving the sale or lease of real property, other than a ministerial act as defined in R.S. 9:3891(12).

D. Licensees providing agency disclosure informational pamphlets or agency disclosure forms to prospective sellers/lessors and buyers/lessees shall ensure that the recipient signs and dates the pamphlet or form. The licensee providing the pamphlet or form shall sign as a witness to the

signature of the recipient, and the licensee shall retain the signed pamphlet or a copy of the form for a period of five years.

E. In any circumstance in which a seller/lessor or a buyer/lessee refuses to sign the agency disclosure informational pamphlet receipt or the agency disclosure form, the licensee shall prepare written documentation that includes the nature of the proposed real estate transaction, the time and date the pamphlet or form was provided to the seller/lessor or buyer/lessee, and the reasons given by the seller/lessor or buyer/lessee for not signing the pamphlet or form. This documentation shall be retained by the licensee for a period of five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:47 (January 2000), amended LR 29:349 (March 2003), amended by the Office of the Governor, Real Estate Commission, LR 32:1454 (August 2006).

§3705. Dual Agency Disclosure

A. The dual agency disclosure form will be used by licensees acting as a dual agent under R.S. 9:3897.

B. Licensees are responsible for ensuring that the form is the most current version prescribed by the commission and that reproductions of the form contain the identical language prescribed by the commission.

C. Licensees shall ensure that the dual agency disclosure form is signed by all clients at the time the brokerage agreement is entered into or at any time before the licensee acts as a dual agent. A copy of this documentation shall be retained by the licensee for a period of five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:47 (January 2000), amended LR 29:349 (March 2003), amended by the Office of the Governor, Real Estate Commission, LR 32:1455 (August 2006).

Chapter 53. Real Estate Schools; Real Estate Education Vendors; Instructors

§5301. Definitions

A. Real estate school is defined as any individual or entity certified by the Louisiana Real Estate Commission to provide real estate pre-license education, post license education and continuing education courses.

B. Real estate education vendor is defined as any individual or entity certified by the Louisiana Real Estate Commission to provide post license and/or continuing education.

C. State certified real estate instructor is defined as any individual certified by the Louisiana Real Estate Commission to provide real estate instruction for a certified real estate school or certified real estate education vendor.

D. Guest lecturer is defined as a non-certified instructor who provides no more than two presentations of pre-license education for a certified real estate school in a calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:52 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1455 (August 2006).

§5303. Certification; Applications and Procedures

A. Certifications issued under this Chapter shall be classed in the following categories:

1. real estate schools;
2. real estate education vendors;
3. real estate instructors.

B. Any individual or entity desiring to conduct business in this state as a real estate school, real estate education vendor, or real estate instructor shall file an application for certification with the commission.

C. The application shall be in such form and detail as prescribed by the commission and shall be accompanied by the certification fee(s) prescribed in R.S. 37:1443.

D. The commission shall approve or deny an application within 45 calendar days after it is received. Incomplete applications or a request from the commission for additional information may be cause for delay beyond 45 calendar days.

E. The commission may deny an application for certification for any of the following reasons:

1. the applicant has been convicted of forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or theft, or has been convicted of a felony or crime involving moral turpitude in any court of competent jurisdiction;
2. an application contains a false statement of material fact;
3. a professional license or certification held by an applicant has been revoked.

F. The commission shall issue a certificate and assign a certification number to approved applicants that shall be included on all forms, documents, reports, and/or correspondence filed with the commission.

G. Applicants for certification under this Chapter shall obtain a surety bond issued by an insurance company that is authorized to conduct business in this state.

1. Real estate school applicants shall file proof of a \$10,000 surety bond with the commission within 10 calendar days of initial approval.

2. Real estate education vendors shall file proof of a \$5,000 surety bond with the commission within 10 calendar days of initial approval.

3. Real estate instructors shall be exempt from the provisions of this Part and shall not be required to obtain a surety bond.

4. Bonds shall be in favor of the state of Louisiana and conditioned for the protection of the contractual rights of students who attend real estate courses offered by the real estate school or real estate education vendor.

5. Bonds shall remain effective and in force throughout the certification period of the real estate school or real estate education vendor.

6. Proof of bond renewal shall be provided to the commission annually.

7. Failure to maintain a bond shall be cause for revocation or suspension of a certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:52 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1455 (August 2006).

§5305. Certifications; Exemptions and Exclusions

A. Colleges, universities, and state vocational-technical schools that provide courses in real estate shall not be required to apply for certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:52 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:486 (March 2002), LR 29:2073 (October 2003), LR 32:1456 (August 2006).

§5307. Certification; Certificate of Authority

A. The certification to operate as a real estate school, real estate education vendor, or real estate instructor shall be in the form of a Certificate of Authority. No Certificate of Authority shall be issued or renewed for any school applicant holding a real estate broker license whose school is designed, intended and/or primarily used for instruction of that same broker/owner's future salesperson or broker affiliates.

B. A Certificate of Authority shall be issued for a maximum period of one year and shall expire annually on December 31 unless an application for renewal is submitted.

1. Renewal of an instructor Certificate of Authority shall require completion of eight hours of approved continuing education completed during the current certification period. The eight hours shall include four hours in the mandatory course specified by the commission.

2. The renewal of a Certificate of Authority for a real estate school or real estate education vendor shall be exempt from the continuing education requirements of this Section.

C. Failure to renew a Certificate of Authority by December 31 shall result in the following action.

1. All course approvals issued under the Certificate of Authority shall be automatically suspended, and the commission shall not accept any pre-license education, post-license education, or continuing education courses for credit, if the courses were offered after the expiration of the Certificate of Authority.

2. Applications for delinquent renewal of a Certificate of Authority shall not be accepted by the commission after January 31. Failure to renew an expired Certificate of Authority during the prescribed delinquent period shall result in the forfeiture of renewal rights. Any real estate school, real estate education vendor, or real estate instructor that becomes ineligible to renew a Certificate of Authority shall apply as an initial applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:52 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1456 (August 2006).

§5309. Real Estate Schools and Real Estate Education

Vendors; Owners and Directors

A. All real estate schools and real estate education vendors shall designate a director, whose duty it shall be to ensure that the operations of the school or vendor, and all training locations, adhere to the requirements of the Louisiana Real Estate License Law and the rules and regulations of the commission, and who shall be held responsible to the commission for any violations thereof.

B. Directors shall coordinate and disseminate information pertaining to amendments in the license law, rules and regulations, or policies and procedures of the commission to all staff, instructors, and employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:52 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1456 (August 2006).

§5311. Real Estate Schools and Real Estate Education Vendors; Facilities and Inspections

A. The commission may inspect any facility used by a real estate school or real estate education vendor at any time during regular business hours.

B. Real estate schools and real estate education vendors shall be subject to periodic audits and review, as determined by the commission, to ensure that courses are conducted in accordance with the provisions set forth in this Chapter, Chapter 55 of the commission rules and regulations, and R.S. 37:1460. This may include the observation and evaluation of classroom activities, course content, instructor proficiency, and/or the audit of reporting/attendance records.

C. If the real estate school or real estate school vendor is found deficient in any part of this Section, the commission shall prepare a report specifying the areas of deficiency.

D. Any real estate school or real estate education vendor that receives a report of deficiencies shall correct the deficiencies by the date designated by the commission and shall submit a report to the commission that outlines the corrective action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:53 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1456 (August 2006).

§5313. Real Estate Schools and Real Estate Education Vendors; Record Keeping

A. Real estate schools and real estate education vendors shall maintain accurate and properly indexed records on all students for at least five years after course completion and shall produce those records for inspection upon request of the commission. Electronic records shall be maintained in a readily available format that does not prohibit, delay, or otherwise impede inspection.

B. Real estate schools and real estate education vendors shall maintain the following records on each student:

1. complete name and address;
2. total classroom hours taken and course title;
3. dates of attendance;
4. test scores or pass/fail indications;
5. copy of student contract.

C. Real estate schools and real estate education vendors shall provide any student who requests it with a duplicate copy of his/her course completion records. The real estate school or real estate education vendor shall determine any fee associated with providing the records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:54

(January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1456 (August 2006).

§5315. Real Estate Schools and Real Estate Education Vendors; Tuition, Fees, and Contracts

A. Each real estate school shall enter into a written contract with each student that shall clearly set forth the tuition and fees charged by the school for a specific course of instruction and the school refund policy.

B. A copy of the contract, signed by an authorized representative of the school, shall be provided to the student immediately after both parties sign the contract.

C. Any additional fees charged for supplies, materials, or required books shall be clearly itemized in the school contract, and such supplies, materials, or books shall become the property of the student upon payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:54 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1457 (August 2006).

§5317. Instructor Qualifications; Guest Lecturers

A. Applicants for instructor certification shall be required to pass the real estate instructor assessment examination specified by the commission and shall satisfy at least one of the following qualifications:

1. bachelor's degree with a major in real estate from an accredited college or university;

2. bachelor's degree from an accredited college or university and at least two years experience in the real estate business;

3. real estate broker license and a minimum of five years experience in the area of proposed instruction;

4. Juris Doctorate degree or the equivalent from an accredited law school and a minimum of three years experience in the area of the proposed instruction;

5. two years experience as a qualified instructor or professor in the business, finance or economics department of an accredited college or university;

6. any qualifications determined by the commission to be the equivalent of at least one of the qualifications prescribed in Paragraphs 1-5 of this Section.

B. A guest lecturer shall meet at least one of the following qualifications:

1. a college or university professor in real estate, finance, economics, or a related field;

2. a specialist with a degree or professional designation with expertise in the specific topic of instruction;

3. a real estate licensee with at least five years experience in the area of proposed instruction.

C. Guest lecturers shall not instruct pre-license courses pertaining to the Louisiana Real Estate License Law or the commission rules and regulations.

D. Guest lecturers shall not provide more than two presentations of pre-license education for a certified real estate school in a calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:54 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1457 (August 2006).

§5319. Prohibitions

A. Any activity that is designed to influence or solicit a pre-license education student to work under the sponsorship of any real estate broker shall be considered recruiting and is prohibited while on the premises of a real estate school.

B. In addition to the main location of the school, and any other facility in which the school provides pre-license education courses, the premises of a real estate school shall include Websites and any online and/or distance education courses provided by the school.

C. It shall be prohibited for any real estate brokerage firm to operate a real estate school under the same legal entity as the real estate brokerage firm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:54 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1457 (August 2006).

§5321. Change of Address

A. The commission shall be notified within 10 calendar days of any change in the address and/or telephone number of any real estate school or real estate education vendor.

B. The commission shall be notified within 10 calendar days of any change in the residence or business address and/or telephone number of any real estate school or real estate education vendor owner, director, or instructor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:54 (January 2000), amended by the Office of the Governor, LR 32:1457 (August 2006).

§5323. School Advertising

A. Advertising by real estate schools and real estate education vendors shall not be false or misleading.

B. The commission may require a real estate school or real estate education vendor to furnish proof of any advertising claims. The commission may order the retraction of advertising that violates the provisions of this Section. Such retractions shall be published in the same manner as the original claim and be paid for by the real estate school or real estate education vendor.

C. Certified real estate schools shall not guarantee the passing of the state real estate licensing examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:54 (January 2000); amended by the Office of the Governor, Real Estate Commission, LR 28:487 (2002), LR 32:1457 (August 2006).

Chapter 55. Real Estate Courses

§5501. Course Approval; Applications and Procedures

A. Courses approved by the commission shall be classed in the following categories:

1. pre-license education;
2. post license education;
3. continuing education.

B. Real estate schools and real estate education vendors shall file a course approval application with the commission for each course that will be offered for credit toward an initial or renewal real estate license.

C. The course approval application shall be in such form and detail as prescribed by the commission and shall be

accompanied by the processing fee prescribed in R.S. 37:1443.

D. The commission shall approve or deny a course approval application within 45 calendar days after it is received. Incomplete applications or a request from the commission for additional information may be cause for delay beyond 45 calendar days.

E. Each course approved by the commission shall remain active for three years and shall expire on December 31 of the third year unless a renewal application for course approval is filed with the commission. The commission shall not accept credit for a non-renewed course that is presented after the date of expiration.

F. The commission shall assign a tracking number to each approved course that shall be used with the approved course title on all forms, documents, reports, and/or correspondence filed with the commission.

G. Real estate schools and real estate education vendors shall not amend the title or outline of any approved course without first obtaining the written approval of the commission.

1. All requests to amend a course shall be accompanied by the new course outline and the processing fee prescribed in R.S. 37:1443.

2. It shall be the responsibility of the real estate school or real estate education vendor to amend each course as necessary so as to provide for any applicable law or rule change that is enacted during the course approval period. A fee shall not be required when a real estate course is amended to accommodate law or rule changes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:55 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1457 (August 2006).

§5503. Pre-License Education Courses

A. Salesperson pre-license education courses offered by real estate schools shall be structured in the following manner:

1. salesperson 90-hour course that shall include:
 - a. Real Estate Principles and Practices;
 - b. Louisiana Real Estate License Law;
 - c. Commission Rules and Regulations;
 - d. Law of Agency, as contained in Title 9 of the Louisiana Revised Statutes;
 - e. Civil Law, as it pertains to real estate transactions.

B. Broker pre-license education courses offered by real estate schools shall be structured in the following manner:

1. 90-hour course on basic real estate fundamentals;
2. 30-hour course that shall include, and be limited to, the following topics:
 - a. Louisiana Real Estate License Law;
 - b. Commission Rules and Regulations;
 - c. Law of Agency, as contained in Title 9 of the Louisiana Revised Statutes;
 - d. Civil Law, as it pertains to real estate transactions;
 - e. Ethics and Professionalism;
3. 30-hour course on broker responsibilities.

C. Real estate schools shall not issue pre-license education credit for attendance at post license education courses or continuing education courses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:55 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1458 (August 2006).

§5505. Post License Education Courses

A. Post-license courses offered by real estate schools and real estate education vendors shall be developed in accordance with the content outline prescribed by the commission.

B. Real estate schools and real estate education vendors shall not issue credit for any post-license education course unless the student has passed an examination on the course content. Salesperson post-license hours shall be secured through and reported by one approved vendor.

C. Real estate schools shall not incorporate post-license education with pre-license education instruction.

D. The commission may consider course work completed at colleges and universities, national appraisal organizations, the societies, institutes and councils of the National Association of REALTORS®, National Association of Real Estate Brokers, and federal, state, and local governmental entities for post-license education credit.

E. Post-license education courses shall be open to all licensees regardless of broker affiliation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:56 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1458 (August 2006).

§5507. Continuing Education Courses

A. Real estate schools and real estate education vendors may offer continuing education course topics that include, but are not limited to, appraisal, finance, taxes, zoning, Louisiana Real Estate License Law/commission rules and regulations, environmental quality, property management, and federal laws affecting real estate such as HUD and fair housing regulations.

B. Continuing education courses offered by real estate schools and real estate education vendors shall be a minimum of two hours.

C. Real estate schools shall not incorporate continuing education with pre-license education instruction.

D. The commission shall mandate a four hour topic for continuing education credit that licensees shall complete as a requirement for license renewal.

E. The commission may consider course work completed at colleges and universities, national appraisal organizations, the societies, institutes and councils of the National Association of REALTORS®, National Association of Real Estate Brokers, and federal, state, and local governmental entities for continuing education credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:56 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1458 (August 2006).

§5509. Methods of Instruction; Classroom Training, Correspondence, Distance Education

A. Classroom training that is led by an instructor and held in a physical location, or delivered via a network, may be used to present pre-license, post license, and continuing education courses and shall be in such format and detail as prescribed by the commission.

B. Correspondence courses shall be in such format and detail as prescribed by the commission for post license or continuing education credit hours. Passage of an examination on course content is a requirement for all correspondence courses.

C. Distance education, for the purpose of this Chapter, shall mean interactive Internet-based instruction and may be used for pre-license, post license, and continuing education courses. Real estate schools and real estate vendors that offer distance education courses shall apply for course approval as follows:

1. Distance education courses shall be submitted to the commission for content approval prior to any course offering.

2. Distance education courses that have been approved by the commission for course content shall be submitted to the Association of Real Estate License Law Officials (ARELLO) for certification of the delivery method prior to any course offering. Loss of ARELLO certification for courses approved under this Section shall automatically suspend commission approval of the course content.

D. Final examinations for correspondence and distance education courses shall consist of multiple choice questions with four possible answers (a, b, c and d) as follows:

1. a minimum of 20 questions for each two hours of continuing education credit; or

2. a minimum of 30 questions for each three hours of post licensing credit;

3. the examination that a student submits for grading shall include a signed and dated statement that the student has personally completed the course and examination.

E. All courses submitted for approval shall be in the exact format in which they will be sold to licensees for post licensing or continuing education credit.

F. Real estate schools and real estate education vendors shall obtain the student's name, drivers license or identification number, address, and payment prior to the student receiving the course.

G. Real estate schools and real estate education vendors shall not grade any written assignment or examination if it is presented for grading before the time frame for course completion has been reached.

H. Real estate schools and real estate education vendors shall not grade any examination that does not contain the signed certification required in Paragraph D.3 of this Section.

I. Real estate schools and real estate education vendors shall certify students as successfully completing a course only if the student completes any written assignments and passes the required examination on course content.

J. Real estate schools and real estate education vendors shall issue certificates containing the following information to students:

1. complete name of the real estate school or real estate education vendor and the Certificate of Authority number;

2. name and drivers license or identification number of the student;

3. course title;

4. number of credit hours completed;

5. date of course completion;

6. signature of verifier of course completion;

7. acknowledgment of student's successful completion of examination;

8. indication of correspondence study denoted as "correspondence" or "C".

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:56 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1459 (August 2006).

§5511. Course Reporting; Schedules and Attendance

A. Real estate schools shall submit pre-license education course schedules to the commission.

B. Real estate schools and real estate education vendors shall submit continuing education and post license education course schedules and attendance verification reports to the commission.

C. Course schedules shall be received by the commission at least ten calendar days prior to the beginning of each month.

D. Course schedules and attendance verification reports shall be submitted in such form and detail as prescribed by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:56 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1459 (August 2006).

§5513. Certificate Renewal

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:56 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:1459 (August 2006).

§5515. Eligibility of Courses

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:56 (January 2000); amended by the Office of the Governor, Real Estate Commission, LR 28:485 (March 2002), LR 29:2067 (October 2003), repealed LR 32:1459 (August 2006).

§5517. Requirements for Submission of Additional Course Approval Requests by Approved Vendors

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:57

(January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:1459 (August 2006).

**§5519. Post Licensing and Continuing Education
Course Work by Correspondence or Other
Distance Learning Methods**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:57 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:1460 (August 2006).

**§5521. Post Licensing and Continuing Education
Instructor Qualifications**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:58 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 29:2067 (October 2003), repealed LR 32:1460 (August 2006).

§5523. Prohibition of Recruiting

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:58 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:1460 (August 2006).

§5525. Course Fees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:58 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:1460 (August 2006).

**§5527. Course Completion Verification and Reporting
Requirements**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:58 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:1460 (August 2006).

§5529. Record Keeping

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:59 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:1460 (August 2006).

**§5531. Inspection or Monitoring of Approved
Vendors/Courses**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:59 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:1460 (August 2006).

**§5533. Pre-licensing Schools Offering Post Licensing
and Continuing Education Courses**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:59 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:1459 (August 2006).

§5535. Advertisement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:59 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:485 (March 2002), repealed LR 32:1460 (August 2006).

§5537. Change of Address

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:59 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:1460 (August 2006).

**§5539. Post Licensing and Continuing Education on an
Individual Basis**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:59 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:486 (March 2002), repealed LR 32:1460 (August 2006).

**§5541. Commission Sponsored Seminars—Continuing
Education Only**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:59 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:1460 (August 2006).

§5543. Seminar Instructor Qualifications

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:60 (January 2000), repealed by the Office of the Governor, Real Estate Commission, LR 32:1460 (August 2006).

§5545. Minimum Length of Courses

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:60 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 29:2068 (October 2003), repealed LR 32:1460 (August 2006).

Julius C. Willie
Executive Director

0608#021

RULE

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Family Planning Waiver (LAC 50:XXII.Chapters 21-27)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:XXII.Chapters 21-27 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXII. 1115 Demonstration Waivers

Subpart 3. Family Planning Waiver

Chapter 21. General Provisions

§2101. Purpose

A. The family planning waiver, called Take Charge, will increase access to family planning services for women who currently are not eligible for such services, but who would be eligible for Medicaid coverage, based on their income, if they became pregnant.

B. The primary goals of this family planning waiver are to:

1. increase access to services which will allow management of reproductive health;
2. reduce the number of unintended pregnancies; and
3. decrease Medicaid expenditures from prenatal and delivery related services for women in the targeted population.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1461 (August 2006).

§2103. Enrollment

A. Family planning waiver services will be available to eligible women according to the following enrollment caps.

1. For the first year, priority will be set to enroll up to 25,000 women whose pregnant woman certifications are being closed.

- a. On a first-approved basis, up to 50,000 additional women who are not eligible for participation in the priority group established in Paragraph A.1 above may be enrolled until a cap of 75,000 enrollees has been reached for the first waiver year. Enrollment caps cannot be exceeded.

2. For the second year, priority will be set to enroll up to 22,250 women whose pregnant woman certifications are being closed.

- a. On a first-approved basis, additional enrollees, including those established in Paragraph A.2 above, will be allowed to enroll until a cap of 110,250 enrollees has been reached for the second waiver year. Enrollment caps cannot be exceeded.

B. Additional enrollment caps for subsequent years will be published in Potpourri notices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1461 (August 2006).

Chapter 23. Eligibility

§2301. Recipient Qualifications

A. Family planning waiver services shall be provided to women who:

1. are 19 through 44 years of age;
2. have family income at or below 200 percent of the federal poverty level;
3. are not eligible for inclusion in any other Medicaid program or State Children's Health Insurance Program (SCHIP); and
4. do not have Medicare or other private health insurance coverage other than a single coverage policy which provides limited benefits, such as a dental or vision policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1461 (August 2006).

Chapter 25. Services

§2501. Covered Services

A. Services provided in this family planning waiver include:

1. annual physical exams;
2. necessary lab tests; and
3. contraceptive services, including sterilizations and Food and Drug Administration (FDA) approved family planning pharmaceuticals, devices, methods or supplies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1461 (August 2006).

§2503. Service Limits

A. There is a limit of four visits per calendar year for services rendered by a physician, nurse practitioner, physician assistant, or nurse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1461 (August 2006).

§2505. Service Delivery

A. Family planning waiver services may be delivered through any enrolled Medicaid provider whose scope of practice includes family planning services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1461 (August 2006).

Chapter 27. Reimbursement

§2701. Reimbursement Methodology

A. All Medicaid providers, including federally qualified health centers, rural health clinics and tribal 638 facilities, shall be reimbursed for family planning waiver services at the Medicaid fee-for-service rates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1461 (August 2006).

Implementation of this Rule is subject to approval by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0608#070

RULE

Department of Insurance Office of the Commissioner

Regulation 33—Medicare Supplement Insurance Minimum Standards (LAC 37:XIII.525)

In accordance with R.S. 49:953(A) of the Administrative Procedure Act, the Department of Insurance has amended Section 525, Medicare Select Policies and Certificates, of Regulation 33:Medicare Supplement Insurance Minimum Standards (LAC 37:XIII.Chapter 5). The amendments are designed to define the geographical service areas within which Medicare Select policies can be sold; to restrict the sale of Medicare Select policies to persons residing in the issuer's service area; and, to provide notice to policyholders of the potential effects on benefits payable under Medicare Select policies when policyholders move their residence outside of the service area. The amendments are put forth to alleviate confusion regarding Medicare Select policy benefits available to policyholders once the policyholder moves his or her residence outside of the insurer's network service area.

This regulation shall be effective upon final publication in the *Louisiana Register*.

Title 37 INSURANCE

Part XIII. Regulations

Chapter 5. Regulation 33—Medicare Supplement Insurance Minimum Standards

§525. Medicare Select Policies and Certificates

A.1. - B. ...

Primary Residence—the policyholder's residence as listed on the policyholder's application for insurance or any other residence given by the policyholder to the issuer subsequent to the application date for the purpose of changing the policyholder's residence.

Service Area—the 50 mile geographical radius or area approved by the commissioner within which a policyholder's primary residence must be located in relation to an issuer's network provider and within which an issuer is authorized to offer a Medicare Select policy.

C. ...

D.1. A Medicare Select issuer shall not issue a Medicare Select policy or certificate in this state until its plan of operation has been approved by the commissioner.

2. After September 1, 2006, issuers shall be prohibited from selling new Medicare Select policies to those persons whose primary residence is located outside of the issuer's service area.

3. Medicare Select issuers shall provide notice, within 30 days after the publication of this rule, to all Medicare Select policyholders that:

a. if the policyholder changes his primary residence to a residence located outside of the issuer's service area:

i. the policyholder shall have the right to convert his current Medicare Select policy to a Medicare Supplement policy; and

ii. the issuer cannot cancel the policyholder's Medicare Select policy on the basis that the policyholder did not convert his Medicare Select policy to a Medicare Supplement policy.

iii. the terms of the policy shall govern with respect to benefits available to the policyholder after moving his primary residence outside of the service area.

b. The policyholder may incur a penalty in the form of some or all of the benefits under the Medicare Select policy not being payable if the policyholder requires medical services outside of the service area after the policyholder changes his primary residence to a residence located outside of the service area without converting his policy to a Medicare Supplement policy.

4. After October 1, 2006, upon the Medicare Select issuer obtaining actual knowledge that a policyholder has changed his primary residence to a residence located outside of the service area, the issuer shall mail to the policyholder the same notice, or one substantially similar, required in the above Paragraph D.3. The issuer shall mail this notice within 30 days after obtaining actual knowledge of the policyholder's change of residence.

E. - O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1108 (June 1999), repromulgated LR 25:1488 (August 1999), amended LR 29:2442 (November 2003), LR 31:2910 (November 2005), LR 32:1462 (August 2006).

James J. Donelon
Commissioner

0608#038

RULE

Department of Public Safety and Corrections Division of Youth Services Office of Youth Development

Probationary Period (LAC 22:I.707)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 36:405, the Department of Public Safety and Corrections, Division of Youth Services, Office of Youth Development hereby promulgates §707, Probationary Period. The deputy secretary is promulgating this Rule to supplement the information provided in the Employee Manual regarding probationary appointments and the attainment of permanent status and to increase the probationary period for Youth Services employees to 12 months.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT
Part I. Corrections

Chapter 7. Youth Services

Subchapter A. Administration

§707. Probationary Period

A. Purpose. This rule will supplement the Employee Manual regarding probationary appointments and the attainment of permanent status and increase the probationary period to 12 months.

B. Applicability. The undersecretary or designee, unit heads, Youth Services (YS) Central Office's Human Resources Manager, Unit Human Resources staff, all newly hired classified employees and their supervisors. Unit heads shall ensure compliance with this policy.

C. Policy. It is the deputy secretary's policy that probationary periods for YS employees will be for a period of 12 months. If an employee performs assigned duties in a satisfactory manner during the 12-month period, the employee will attain permanent status. If the employee does not perform assigned duties satisfactorily, the employee will be separated from employment.

D. Definitions

Agency Preferred Re-Employment List—a list of names of permanent employees who were laid off or demoted in lieu of a layoff.

Appointing Authority—Deputy Secretary of YS.

Classified Employee—an employee who is hired under the Civil Service system on a probational appointment and attains permanent status.

ISIS—Integrated Statewide Information Systems.

Permanent Appointment—the appointment of a probationary employee after certification by the appointing authority or designee, signifying that the employee has met the required standard of work during the probationary period.

Probational Appointment—an essential part of the examination process; used for the most effective adjustment of a new employee and for the elimination of any probationary employee whose performance does not meet required work standards. Employees who are required to serve probationary periods are those appointed to the following: permanent positions following certification from an open competitive employment list; original appointments to permanent positions in non-competitive classes; non-competitive re-employments based on prior service, except those hired from the agency's preferred re-employment list in a position which was filled with a probational appointment; and those employees who have an interruption of a probationary period for military purposes.

Unit Head—facility directors, probation and parole program director, and the deputy secretary or designee for YS Central Office.

YS Central Office—Offices of the deputy secretary, undersecretary or designee of the Office of Management and Finance, assistant secretaries and their support staff.

E. General. The appointing authority may separate a probationary employee at any time under Civil Service Rule No. 9.1(e).

F. Probational Appointments

1. All newly hired employees appointed on probational appointments shall serve a 12-month probationary period as a test period of satisfactory work performance as outlined in their job descriptions and determined by their supervisors.

2. A probationary employee who is absent for military training or active duty in excess of 30 consecutive calendar days shall return to work in the probationary status at the point reached in the probationary period before leaving. Absences of 30 consecutive calendar days or less shall be counted as part of the probationary period.

3. A former employee who is on the agency preferred re-employment list and is re-employed in a position that must be filled with a probational appointment must serve a 12-month probationary period.

4. An employee who is permanently transferred, reassigned, or demoted to another position shall be eligible for permanent status in the new position after completing the probationary period that began prior to the change in position(s).

5. The probationary period of a part-time employee is computed on the same calendar basis as though employed full-time.

6. While on probationary status, an employee earns and can use annual, sick, and compensatory leave. The employee also gets paid for holidays and is eligible for health care and retirement benefits.

G. Permanent Appointments. Employees with permanent status who are promoted, transferred, reassigned, or demoted to another position are not required to serve a probationary period in the new position.

H. Permanent Appointment Action Following Probationary Period

1. A permanent appointment of a probationary employee shall begin upon certification by the appointing authority or designee to Civil Service that the employee has met the required standard of work while on probationary status.

2. A permanent appointment must be reported to Civil Service through the ISIS Human Resources System.

I. Monitoring Procedures

1. The Human Resources (HR) staff will run reports from the ISI Human Resources System of employees who are eligible for permanent status.

2. When an employee is eligible, HR staff will complete a "tickler" and forward to the employee's supervisor.

3. The supervisor will make a recommendation regarding permanent status and forward the recommendation to the appointing authority for approval.

4. The appointing authority will return the approval to the HR staff for entering into the ISIS Human Resources System.

5. The HR staff will notify the employee of the action taken with a copy of the "Employee Notification Form."

AUTHORITY NOTE: Promulgated in accordance with Civil Service Rules Nos. 8:10(b) and 17:25(a).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Youth Services, Office of Youth Development, LR 32:1463 (August 2006).

Simon G. Gonsoulin
Deputy Secretary

0608#025

RULE

Department of Social Services Office of Family Support

CCAP—Job Search and Repair and Improvement Grants (LAC 67:III.Chapter 51)

The Department of Social Services, Office of Family Support, amended LAC 67:III.5102, 5103, 5104, 5107, and 5109 in the Child Care Assistance Program (CCAP).

The amendment at §5107 will allow for the receipt of two Repair and Improvement Grants for state fiscal year 2005/2006 for child care providers in designated parishes.

The agency expanded the eligibility criteria at §§5102, 5103, 5104, and 5109 to include job search as a qualifying activity for child care assistance. These amendments will help insure that adequate child care is available and decrease the chance that the children will be left alone or in substandard care facilities.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance Program

Subchapter A. Administration, Conditions of Eligibility, and Funding

§5102. Definitions

Training or Employment Mandatory Participant (TEMP)—a household member who is required, to meet criteria described in §5103.B.4 including the head of household, the head of household's legal spouse or non-legal spouse, the MUP age 16 or older whose child(ren) need child care assistance, and the MUP under age 16 whose child(ren) live with the MUP and the MUP's disabled parent/guardian who is unable to care for the MUP's child(ren) while the MUP goes to school/work.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99 and P.L. 104-193, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:2826 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:1484 (July 2004), LR 31:2262 (September 2005), LR 32:1464 (August 2006).

§5103. Conditions of Eligibility

A. - A.1. ...

B. Low-income families not receiving FITAP cash assistance, including former FITAP recipients who are given

priority consideration, must meet the following eligibility criteria.

1. - 3. ...

4. Effective September 1, 2002, unless disabled as established by receipt of Social Security Administration Disability benefits, Supplemental Security Income, Veterans' Administration Disability benefits for a disability of at least 70 percent, or unless disabled and unable to care for his/her child(ren) as verified by a doctor's statement or by worker determination, the TEMP must be:

a. employed or conducting job search for a minimum average of 25 hours per week and all countable employment hours must be paid at least at the Federal minimum hourly wage; or

b. ...

c. engaged in some combination of employment which is paid at least at the federal minimum hourly wage or job search, or job training, or education as defined in §5103.B.4.b that averages, effective April 1, 2003, at least 25 hours per week;

d. ...

e. participation in Job Search as a countable TEMP activity can only be used for four calendar months per state fiscal year.

5. - 6. ...

7. The family requests child care services, provides the information and verification necessary for determining eligibility and benefit amount, and meets appropriate application requirements established by the state. Required verification includes birth verification for all children under 18 years of age, proof of all countable household income, proof of the hours of all employment or education/training or job search, and effective October 1, 2004, proof of immunization for each child in need of care.

B.8. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, Act 58 2003 Reg. Session, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:1106 (July 2003), LR 29:1833 (September 2003), LR 30:496 (March 2004), LR 30:1487 (July 2004), LR 31:101 (January 2005), LR 31:2263 (September 2005), LR 32:1464 (August 2006).

§5104. Reporting Requirements Effective February 1, 2004

A. ...

B. A Low Income Child Care household that is included in a Food Stamp semi-annual reporting household is subject to the semi-annual reporting requirements in accordance with §2013. In addition, these households must report the following changes within 10 days of the knowledge of the change:

1. ...

2. an interruption of at least three weeks or termination of any TEMP's employment or training or job search; or

3. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, 7 CFR Part 273, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:1487 (July 2004), amended LR 31:2263 (September 2005), LR 32:1464 (August 2006).

Subchapter B. Child Care Providers

§5107. Child Care Provider

A. - H.2....

1. CCAP offers Repair and Improvement Grants to either licensed or registered providers, or to those who have applied to become licensed or registered, to assist with the cost of repairs and improvements necessary to comply with DSS licensing or registration requirements and/or to improve the quality of child care services.

1. - 1.c. ...

2.a. A provider can receive no more than one such grant for any state fiscal year. Exception: For the State Fiscal Year 2005/2006, providers in the following parishes will be eligible to receive two repair and improvement grants: Orleans, Plaquemines, Jefferson, St. Bernard, St. Tammany, Washington, Calcasieu, and Cameron.

b. To apply, the provider must submit an application form indicating that the repair or improvement or purchase is needed to meet DSS licensing or registration requirements, or to improve the quality of child care services. Two written estimates of the cost of the repair or improvement or purchase must be provided and the provider must certify that the funds will be used for the requested purpose. If the provider has already paid for the repair or improvement or purchase, verification of the cost in the form of an invoice or cash register receipt must be submitted. Reimbursement can be made only for eligible expenses incurred no earlier than six months prior to the application. If a provider furnishes estimates to receive a grant, the grant must be spent for the requested purpose within three months of the date the grant is issued.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, Act 152, 2002 First Extraordinary Session, Act 13, 2002 Reg. Session, Act 58, 2003 Reg. Session, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:349 (February 2002), LR 28:1491 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:496 (March 2004), LR 30:1484, 1487 (July 2004), LR 31:102 (January 2005), LR 31:2263 (September 2005), LR 32:1465 (August 2006).

§5109. Payment

A. - B.2.b. ...

3. The number of hours authorized for payment is based on the lesser of the following:

a. ...

b. the number of hours the head of household, the head of household's spouse or non-legal spouse, or the minor unmarried parent is working and/or attending a job training or educational program and/or conducting job search, each week, plus one hour per day for travel to and from such activity; or

B.3.c. - E. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February

1998), amended LR 25:2445 (December 1999), LR 26:2828 (December 2000), LR 27:1933 (November 2001), LR 28:149 (June 2002), LR 29:1834 (September 2003), LR 30:1485 (July 2004), LR 31:2265 (September 2005), LR 32:1465 (August 2006).

Ann Silverberg Williamson
Secretary

0608#055

RULE

Department of Social Services Office of Family Support

Electronic Disbursement of Child Support (LAC 67:III.2518)

The Department of Social Services, Office of Family Support, amended the Louisiana Administrative Code, Title 67, Part III, Subpart 4, Support Enforcement Services (SES), by amending §2518, Electronic Disbursement of Child Support Payments. The agency made it mandatory that all child support payments be distributed electronically pursuant to Section 454A(g) of the Social Security Act.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter D. Collection and Distribution of Support Payments

§2518. Electronic Distribution of Child Support Payments

A.1. Effective April 1, 2006, electronic disbursement of child support payments shall be mandatory except in the following situations:

- a. payments are forwarded to private collection agencies;
- b. physical or other disabilities impose a hardship to receive payments via electronic disbursement;
- c. the custodial parent is receiving FITAP benefits;
- d. payments are forwarded to the Non-Custodial parent;
- e. payments received are in excess of FITAP benefits; and
- f. any other exceptions as shall be determined by Support Enforcement Services to be necessary for effective program operations.

2. Electronic disbursement of child support includes direct deposits to the custodial parent's bank account (checking or savings) or payments to a stored value card account.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with section 454A(g) of the Social Security Act and PIQ-04-02.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:442 (March 2006), amended LR 32:1465 (August 2006)

Ann S. Williamson
Secretary

0608#056

RULE

Department of Treasury Board of Trustees of the Louisiana State Employees' Retirement System

Emergency Refunds (LAC 58:I.1301)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System (LASERS) has amended LAC 58:I.1301. This amendment will allow LASERS to more efficiently administer refunds of accumulated employee contributions.

Title 58

RETIREMENT

Part I. Louisiana State Employees' Retirement System

Chapter 13. Emergency Refunds

§1301. Conditions Giving Rise to an Emergency Refund

A. A refund of accumulated employee contributions may be made in less than 30 calendar days after the date of separation from state service in the following situations:

1. the refund results from the death of the member; or
2. the member has significant expenses for medical care for himself, spouse, or child; or
3. an emergency situation of the member, which shall consist of the foreclosure on a member's domicile, repossession of the member's vehicle, or eviction of the member from his or her apartment. A document filed in the official legal proceeding for foreclosure or repossession or a notice of eviction shall be required as proof to qualify under this provision.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and R.S. 11:537(B).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:1710 (December 1997), LR 31:107 (January 2005), LR 32:1466 (August 2006).

Cindy Rougeou
Executive Director

0608#016